***BANGALORE WATER SUPPLY AND SEWERAGE BOARD***

# TENDER FOR THE WORK OF UPGRADATION OF EXISTING 60 MLD SEWAGE TREATMENT PLANT TO ULTIMATE BUILD CAPACITY 80 MLD AT KENGERI BY PROVIDING ELECTRO-MECHANICAL AND INSTRUMENTATION EQUIPMENTS (2nd Call)

(Through Karnataka Public Procurement Portal only)

https://https://kppp.karnataka.gov.in

**Office of the Chief Engineer (Used Water Projects)**
**BANGALORE WATER SUPPLY & SEWERAGE BOARD**
5th Floor, Cauvery Bhavan D-Block,
K.G. Road, Bangalore 560009
**Telephone** – 080-22945106

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| **TENDER REFERENCE:** | | **No.BWSSB / CE (UWP) / ACE (WWM-P-W) / DCE (WWM- E & W) / TA-2 / 57 /2025-26 DT:19.12.2025** |
| **NAME OF THE WORK** | | **UPGRADATION OF EXISTING 60 MLD SEWAGE TREATMENT PLANT TO ULTIMATE BUILD CAPACITY 80 MLD AT KENGERI BY PROVIDING ELECTRO-MECHANICAL AND INSTRUMENTATION EQUIPMENTS(2nd Call)** |
| **LAST DATE AND TIME FOR RECEIPT OF TENDERS** | | 30.12.2025 at 11.00 PM |
| **TIME AND DATE OF OPENING OF TECHNICAL TENDERS** | | 31.12.2025 at 11.30 PM |
| **PLACE OF OPENING OF TECHNICAL TENDERS** | | Office of the Chief Engineer (UWP),<br>5th Floor, Cauvery Bhavan, K. G. Road, Bengaluru – 560 009, Ph: 91-80-22945106, Email id: cewwmwest@bwssb.gov.in |
| **TIME AND DATE OF OPENING OF PRICE TENDERS** | | Will be intimated to the Technically Qualified Tenderers |
| **PLACE OF OPENING OF PRICE TENDER** | | Will be intimated to the Technically Qualified Tenderers |
| **ADDRESS FOR COMMUNICATION** | | Office of the Chief Engineer (UWP),<br>5th Floor, Cauvery Bhavan, K. G. Road, Bangalore – 560 009, Ph: 91-80-22945106, Email id: cewwmwest@bwssb.gov.in |

**BANGALORE WATER SUPPLY & SEWERAGE BOARD**

**SECTION 1: INVITATION FOR TENDERS**
**(IFT)**

**(Through Karnataka Public Procurement Portal "https://kppp.karnataka.gov.in")**

**No. BWSSB/CE(UWP)/ACE(WWM-P-W)/DCE(WWM-E&W)/TA-2/57/2025-26 DT:19.12.2025.**

1. The ***Chief Engineer (UWP)*** invites tenders from eligible tenderers, for the construction of works detailed in the Table below through e-procurement process with two stages tender procedure in line with the Rule 28 of the KTPP Act shall be followed. ***Two Cover Tender procedure as per Rule 28 of the KTPP Act shall be followed. The eligible Tenderers are required to submit Technical Proposal and Price proposal in electronic form by up loading the same in to the electronic tender box on the web site. Initially only the Technical Proposals will be opened. The price proposal of the Tenderer will be opened only if the Tenderer is found to be qualified to execute the tendered works. The Tenderers are advised to note the minimum qualification criteria specified in Clause 3 of the Instructions to Tenderers to qualify for award of the contract***

2. All interested and eligible bidders could download the complete set of bid documents from the website https://eproc.karnataka.gov.in after obtaining the users ID and password. Further assistance for participation in the e-Procurement bidders may refer to this e-Portal. Bidders may obtain further information from the office of the Employer, at the following address:

**Office of the Chief Engineer (UWP),**
Bangalore Water Supply and Sewerage Board,
5th floor, Cauvery Bhavan, K G Road,
Bengaluru – 560 009, Karnataka, INDIA
Tele: +91-80-22945106
E-mail: cewwmwest@bwssb.gov.in

3. Tender must be accompanied by earnest money deposit specified for the work in the Table 1 below. Earnest money deposit will have to be paid in any one for the forms as specified in the tender document and shall have to be valid for 45 days beyond the validity of the tender. The last date for the receipt of the tender is on 30.12.2025 **upto 11.00 hours.** The Technical Proposals will be opened at **11.30 hours on 31.12.2025,** in the presence of Tenderers 'representatives who choose to attend. In the event of the specified date of the tender opening being declared a holiday for the Employer, the tenders will be opened at the same time and place on the next working day.

4. The tender shall be submitted on the website prior to the deadline of submission of tenders as given in Para 3 above. Hard copies of the proposal will not be accepted by the Employer. **The system will automatically generate a time stamp that will acknowledge the submission of the tender by the Tenderer**. Any attempt of tender submission after the deadline of the submission of tenders will be automatically rejected by the system. The Price Proposals will be opened in the presence of representatives of those technically qualified bidders, who choose to attend at the time and at the address to be advised by the Employer after the evaluation of the Technical Proposals. The Employer will not be responsible for any costs or expenses incurred by the Tenderers in connection with preparation and / or submission of tenders

**TABLE 1**

| **Sl. No.** | **Name of work** | **Approximate Value of work (Crore.)** | **Earnest Money Deposit (Lakhs)** | **Period of completion** |
|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 |
| **1** | Tender for the work of **Upgradation of Existing 60 MLD Sewage Treatment Plant to Ultimate Build Capacity 80 MLD at Kengeri by Providing Electro-Mechanical and** | **23.07 (excluding GST)** | **Rs. 23.07** | **12 months** |

| | | | | |
|---|---|---|---|---|
| | **Instrumentation Equipments (2nd Call)** | | | |

5. Bidders can access tender documents from www.kppp.karnataka.gov.in website only and upload the required details; those are mentioned in different sections in the bid document in to electronic tender on the website. Scanned documents those are required to be furnished as per Section 2, 3 & 4 of the bid document shall be submitted through e-procurement.
6. **The Amount put to Tender is excluding of GST**
7. The Tender processing fee once paid will not be refunded.
8. Duly signed Tender form shall be uploaded

9. The successful bidder would be required to give performance **Bank Guarantee of 5%** of the contract amount plus additional security for unbalanced bid amount from a Nationalized / Scheduled Indian Bank, with jurisdiction at Bengaluru as specified, towards guarantee for completion of work within the stipulated period.

10. Applications / requisitions from joint venture firms are acceptable. In case of JV in this contract, Lead Partner shall meet minimum 50% of required turnover and partner shall meet minimum 25% of required turnover.

11. Bengaluru Water Supply and Sewerage Board (BWSSB) reserve the right to cancel or annul the entire or part of this process of invitation at any time without assigning any reason.

12. For any additional information regarding the above tender, the firms who are interested to quote, may contact office of the undersigned at the office address given below on all working days during office hours (10:30hours to 17:00 hours).

13. List of documents to support qualification of bidder is to be uploaded to the e-procurement website www.kppp.karnataka.gov.in

14. Bidders shall submit offers that comply with the requirements of the bid document **including the basic technical design as indicated in the drawing and specifications**. Alternatives will not be considered. The attention of the bidders is drawn to clause 23 regarding the rejection of the bids, which are not substantially responsive to the requirement of the bid document.
15. Other details can be seen in the tender documents.

Sd/-

***Chief Engineer, UWP***
*Bengaluru Water Supply and Sewerage Board*
*5th Floor, Cauvery Bhavan D-Block, K.G. Road,*
*Bengaluru 560009, Karnataka, India.*
*Telephone : 80-22945106*

## SECTION 2: GENERAL INSTRUCTIONS TO APPLICANTS (GITA)

### 1. Scope of Works

**Scope of Works** 1.1The Employer, as named in the PITA, intends to pre-qualify and award contractors for the Works described in the PITA.

**Slice and Package** 1.2 **Not Applicable**.

**Tender Invitation** 1.3 It is expected that pre-qualified applicants will be invited to submit tenders during the month and year indicated in the PITA.

**Type of Contract** 1.4 The tender documents, type of contract, and method of payment, whether prices are fixed or adjustable, and the time for completion are indicated in the PITA.

**Site Information** 1.5 General information on the climate, hydrology, topography, geology, access to site, transportation and communications facilities, medical facilities, project layout, expected construction period, facilities, services provided by the Employer, and other relevant data is attached as an Annex to the PITA.

### 2. Fraud and Corruption

2.1 The GOK requires that standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, GOK: the tenderers/ Contractors observe the highest

(a) will reject a proposal for award if it determines that the bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question;and

(b) will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded a GOK contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing, a GOK contract.

### 3. Eligibility of Tenderers

**Eligible Tenderers** 3.1 Tenderers shall not be under a declaration of ineligibility for corrupt and fraudulent practices issued by GOK

### 4. Qualification Criteria

**General** 4.1 Pre-qualification will be based on Applicants meeting **all** the following minimum pass–fail criteria regarding their general and particular construction experience, financial position, personnel and equipment capabilities, and other relevant information as demonstrated by the Applicant's responses in the Information Forms attached to the Letter of Application. The qualifications, capacity, and resources of proposed subcontractors will not be taken into account in assessing those of individual Applicants, unless they are named specialist subcontractors pursuant to Sub-Clause 4.4.

**Nominated Subcontracting** 4.2 If so, listed in the PITA, the Employer intends to execute certain specialized elements of the Works by Nominated Subcontractors in accordance with the GCOC of the tender documents, and for which Provisional Sums will be included in the BOQ for the subject Works

**Subcontracting** 4.3 If an Applicant intends to subcontract parts of the Works such that the total of subcontracting is more than the percentage stated in the PITA of the Applicant's approximated Tender Price, that intention shall be stated in the Letter of Application, together with a tentative listing of the elements of the Works to be subcontracted.

**Specialist Subcontracting** 4.4 If an Applicant intends to subcontract any highly specialized elements of the Works to specialist subcontractors, such elements and the proposed subcontractors shall be clearly identified, and the experience and capacity of the subcontractors shall be described in the relevant Information Forms.

**Acceptable Substitutes** 4.5 With reference to Sub-Clauses 4.3 and 4.4, the Employer may require Applicants to provide more information about their proposals. If any proposed subcontractor is found ineligible or unsuitable to carry out an assigned task, the Employer may request the Applicant to propose an acceptable substitute, and may conditionally pre-qualify the Applicant accordingly, before issuing an invitation to tender.

**Contractor's Responsibility** 4.6 After award of contract, the subcontracting of any part of the Works, other than for the provision of labor and materials, or to subcontractors named in the Contract, shall require the prior consent of the Employer. Notwithstanding such consent, the Contractor shall

remain responsible for the acts, defaults, and neglects of all subcontractors during contract implementation.

**General Construction Experience**

4.7 The Applicant shall provide evidence that

(a) it has been actively engaged in the civil works construction business for at least the period stated in the PITA immediately prior to the date of submission of applications, in the role of prime contractor, management contractor, partner in Joint Venture, or subcontractor, and

(b) that the Applicant has generated an average annual construction turnover during the above period greater than the amount stated in the PITA.

The average annual turnover is defined as the total of certified payment certificates for works in progress or completed by the firm or firms comprising the Applicant, divided by the number of years stated in the PITA.

**Particular Construction Experience**

4.8

(a) The Applicant shall provide evidence that it has successfully completed or substantially completed at least the number of contracts stated in the PITA, of a nature, complexity, and requiring construction technology similar to the proposed contract, within the period stated in the PITA. The works may have been executed by the Applicant as a prime contractor, management contractor, or proportionately as member of a joint venture, or subcontractor, with references being submitted to confirm satisfactory performance.

(b) The Applicant shall also provide evidence that it has achieved the minimum monthly and/or annual production rates of the key construction activities described in the PITA under similar contract conditions.

**Financial Capabilities**

4.9 The Applicant shall demonstrate that it has access to, or has available, liquid assets, unencumbered real assets, lines of credit, and other financial means (independent of any contractual advance payment) sufficient to meet the construction cash flow requirements for the subject contract(s) in the event of stoppage, start-up, or other

delays in payment, of the minimum estimated amount stated in the PITA, net of the Applicant's commitments for other contracts.

4.10 In the relevant Information Form, the Applicant shall also demonstrate, to the satisfaction of the Employer, that it has adequate sources of finance to meet the cash flow requirements on works currently in progress and for future contract commitments.

4.11 The audited balance sheets or other financial statements acceptable to the Employer, for the last five years (unless otherwise stated in the PITA) shall be submitted and must demonstrate the current soundness of the Applicant's financial position and indicate its prospective long-term profitability. If deemed necessary, the Employer shall have the authority to make inquiries with the Applicant's bankers.

**Personnel Capabilities**

4.12 The Applicant shall supply general information on the management structure of the firm and shall make provision for suitably qualified personnel to fill the key positions listed in the PITA, as required during contract implementation. The Applicant shall supply information on a prime candidate and on an alternate for each key position, both of whom shall meet the experience requirements specified.

**Equipment Capabilities**

4.13 The Applicant shall own, or have assured access (through hire, lease, purchase agreement, other commercial means, or approved subcontracting) to key items of equipment, in full working order, as listed in the PITA, and must demonstrate that, based on known commitments, they will be available for timely use in the proposed contract. The Applicant may also list alternative types of equipment that it would propose for use on the contract, together with an explanation of the proposal.

**Litigation History**

4.14 The Applicant shall provide accurate information on the related Application Form about any litigation or arbitration resulting from contracts completed or ongoing under its execution over the last five years. A consistent history of awards against the Applicant may result in failure of the application.

**Slice and**

**Package** 4.15 Not Applicable

**Right to Waive** 4.16 The Employer reserves the right to waive minor deviations in the qualification criteria if they do not materially affect the capability of an Applicant to perform the contract.

**Approach and Construction Methods** 4.17 The applicant must attach with their application, a note giving a general description on the approach to the construction methods, technologies, quality assurance schemes proposed, deployment schedule of equipment proposed to be used, etc.,for ensuring completion of the work as per specifications within the desired time- frame.

**Tender Capacity** 4.18 Applicants who meet the minimum qualification criteria will be qualified only if their available tender capacity at the expected time of tendering is more than the total estimated cost of the works. The available tender capacity will be calculated as under,

**Assessed available tender capacity = (A*N*1.5 - B)** >Rs. **27.22** Crores should be greater than the amount put to tender

Where,

A = Maximum value of civil engineering works executed in any one year during the last five years (updated to **2024-25** price level) taking into account the completed as well as works in progress.

N = Number of years prescribed for completion of the works for which tenders are invited.

B = Value at **2024-25** price level, of existing commitments and on-going works to be completed during the next **1** years (period of completion of the works for which Tenders are invited)*

After reviewing the Pre- Qualification criteria fixed for the work in detail, the Committee has cleared the subject for taking further action.

4.19 Applicants meeting the above criteria, are nevertheless subject to be disqualified if they have:

(a) made misleading or false representation in the form, statements and attachments submitted; and/or

(b) record of poor performance such as abandoning the work, not properly completing the contract, inordinate delays in completion, litigation history, or financial failures, etc.

## 5. Joint Venture

**Eligibility**

5.1 If the Applicant comprises a number of firms combining their resources in a joint venture, the legal entity constituting the joint venture and the individual partners in the joint venture shall be registered and shall otherwise meet the requirements of Clause 3 above.

**Qualification Criteria**

5.2 The joint venture must satisfy collectively the criteria of Clause 4.For this purpose, the following data of each member of the joint venture may be added together to meet the collective qualifying criteria.

(a) average annual turnover (Sub-Clause 4.7 [b]).
(b) particular experience including key production rates (Sub-Clause 4.8).
(c) financial means (Sub-Clause 4.9, 4.10, and 4.11).
(d) personnel capabilities (Sub-Clause 4.12); and
(e) equipment capabilities (Sub-Clause 4.13).

Each partner must satisfy the following criteria individually:

(a) general construction experience for the period of years stated in Sub-Clause 4.7 (a),
(b) adequate sources to meet financial commitments on other contracts (Sub- Clause 4.10),
(c) financial soundness (Sub-Clause 4.11), and
(d) litigation history (Sub-Clause 4.14).

Inaccordancewiththeabove,theApplicationshallincludeallrelatedinformationrequiredunder Clause 4 for individual partners in the joint venture.

**Partner in Charge**

5.3One of the partners, who is responsible for performing a key function in contract management or is executing a major component of the proposed contract, shall be nominated as being in charge during the pre-qualification and tendering periods and, in the event of a successful tender, during contract execution. The partner in charge shall be authorized to incur liabilities and receive instructions for and on behalf of any and all partners of the joint venture; this authorization shall be evidenced by submitting a power of attorney signed by legally authorized signatories of all the partners.

**PartnerLimitation**

5.4 Unless otherwise stated in the PITA, there shall be no limit on the number of partners in a JV; however, the attention of Applicants is drawn to the provisions of Sub-Clause 5.5.

**Joint and Several Liability**

5.5 All partners of the joint venture shall be legally liable, jointly and severally, during the tendering process and for the execution of the contract in accordance with the contract terms, and a statement to this effect shall be included in the authorization mentioned under Sub-Clause 5.3above.To enable the above, each of the partners of the joint venture shall meet not less than 25% of the qualifying criteria specified in sub-clauses 4.7 (b) and 4.9 above. All members of the joint venture must have experience in execution of similar works stated in sub-clause 4.8 (a)

**Joint Venture Agreement**

5.6A copy of the Joint Venture Agreement (JVA) entered into by the partners shall be submitted with the Application. Pursuant to Sub-Clauses 5.3 to 5.5 above, the JV A shall include among other things: the JV's objectives; the proposed management structure; the contribution of each partner to the joint venture operations; the commitment of the partners to joint and several liability for due performance; recourse/sanctions with in the JV in the event of default or withdrawal of any partner; and arrangements for providing the required indemnities.

**Dissolution of JointVenture**

5.7The pre-qualification of a joint venture does not necessarily pre-qualify any of its partners to tender individually or as a partner in any other joint venture or association. In case of dissolution of a joint venture prior to the submission of tenders, any of the constituent firms may pre-qualify if they meet all of the pre-qualification requirements, subject to the written approval of the Employer. Individual members of a dissolved joint venture may participate as subcontractor to qualified Applicants, subject to the provisions of Sub-Clause 8.3.

## 6. Requests for Clarification

**Notification and Response**

6.1 Applicants are responsible for requesting any clarification of the pre-qualification documents. A request for clarification shall be made in writing to the Employer’s address indicated in the PITA. The Employer will respond to any request for clarification that it receives earlier than 14 days prior to the deadline for submission of applications. Copies of the Employer’s response, including a description of the inquiry but without identifying its

source, will be forwarded to all purchasers of the pre-qualification documents.

## 7. Submission of Applications

**Delivery**

7.1 Submission of applications for pre-qualification must be received in sealed envelopes either delivered by hand or by registered mail to the address, and not later than the date stated in the PITA. The name and mailing address of the Applicant shall be indicated on the envelope, which shall be clearly marked as indicated in the PITA. A receipt will be given for all applications submitted.

**Late Applications**

7.2 The Employer reserves the right to accept or reject late applications.

**Lack of Information**

7.3 Failure of an Applicant to provide comprehensive and accurate information that is essential for the Employer's evaluation of the Applicant's qualifications, or to provide timely clarification or substantiation of the information supplied, may result in disqualification of the Applicant.

**Material Changes**

7.4 Applicants, and those subsequently pre-qualified or conditionally pre-qualified, shall inform the Employer of any material change in information that might affect their qualification status. Tenderers shall be required to update key pre-qualification information at the time of tendering Prior to award of contract, the lowest evaluated tenderer will be required to confirm its continued qualified status in a post-qualification review process.

## 8. Employer's Notification and Tender Process

**Invitation for Tender**

8.1 Within the period stated in the PITA from the date for submission of applications, the Employer will notify all Applicants in writing of the results of their

application, and of the names of all pre-qualified and conditionally pre-qualified applicants (see Sub-Clause 8.2 below). At the same time, successful applicants will be invited to submit a tender, in the format of the Invitation for Tenders annexed to the PITA

**Conditional Pre-qualification**

8.2 An Applicant may be "conditionally pre-qualified," that is, qualified subject to certain specified non material efficiencies in the pre-qualification requirements being met by the Applicant to the satisfaction of the Employer, before submitting a tender. Upon full compliance with the pre-qualification requirements, other pre-qualified applicants willbe notified accordingly.

**One Tender per Tenderer**

8 .3 Only firms that have been pre-qualified under this procedure may submit a tender. A firm shall submit only one tender in the same tendering process, individually as a Tenderer.

**Earnest Money Deposit**

8.4 Tenderers will be required to provide earnest money deposit in the form and amount indicated in the tender documents. The successful tenderer will be required to provide Performance Security in the form and amount indicated in the tender documents.

**Changes after Pre-Qualification**

8.5 Any change in structure or formation the of an Applicant after being pre-qualified and invited shall be subject to written approval of the Employer prior to the deadline for submission of tenders. Such approval will be denied if as a consequence of any change.

(a) An individual firm fails to meet qualifying requirements;

(b) In the opinion of the Employer, a substantial reduction in competition may result.

**Employer's Rights**

8.6 The Employer reserves the right to take the following actions, and shall not be liable for any such actions:

(a) amend the scope and cost of any contract to be tendered under this project, in which event tenders will be invited only from those applicants who meet the resulting amended pre-qualification

requirements.

(b) reject or accept any pre-qualification application, and/or any late application; and

(c) cancel the pre-qualification process and reject all applications.

# SECTION 3: PARTICULAR INSTRUCTIONS TO APPLICANTS (PITA)

## Part A: General

*All items in the PITA should be filled in by the Employer before issuance of the pre-qualification documents*

The PITA below is formatted for pre-qualification related to a single (individual) contract. Part A relates to general matters that are common. Part B relates to specific requirements for an individual contract.

| | |
|---|---|
| GITA Sub-Clause Reference | These particular instructions and related Information Forms (IF) are intended to complement, amend, or supplement the provisions in the GITA.In the event of conflict or ambiguity, the provisions in the PITA shall prevail over those in the GITA. |
| 1.1 | Name of Project:<br>**Upgradation of existing 60 MLD Sewage Treatment Plant to ultimate build capacity 80 MLD at Kengeri by Providing Electro-Mechanical and Instrumentation equipments(2nd *Call)*** |
| 1.2 | **The Employer**:<br>Office of the Chief Engineer (WWM-West),<br>6th Floor, Cauvery Bhavan, K. G. Road, Bangalore-560 009,<br>Ph: 91-80-22945106 Email id: cewwmwest@bwssb.gov.in |
| 1.3 | **Slice and Package**<br>Not Applicable. |
| 1.4 | **Tender Invitation**<br>**No.BWSSB / CE (WWM -W) / ACE (WWM-P-W) / DCE (WWM- E & W) / TA-2 /57/2025-26 DT:19.12.2025** |
| 4.11 | **Audited Balance Sheets or Financial Statement**<br><br>**For last five years 2020-21, 2021-22, 2022-23, 2023-24 and 2024-25** |
| 6.1 | **Requests for Clarification:**<br><br>Address:<br>Office of the Chief Engineer (WWM-West),<br>6th Floor, Cauvery Bhavan,<br>K. G. Road, Bangalore-560 009,<br>Ph: 91-80-22945106 |
| 7.1 | **Submission of Tenders** |

| | |
|---|---|
| | Date for Submission: 05.11.2025<br>The submission will be through the e-procurement portal of government of Karnataka. www.ktpp.karnataka.gov.in |
| 8.1 | **Employer's Notification**<br>Time period from the closing date for submission of applications: |
| 9.1 | **Joint Ventures**<br>Applications / requisitions from joint venture firms are acceptable. In case of JV in this contract, Lead Partner shall meet minimum 50% of required turnover and partner shall meet minimum 25% of required turnover. |

# Part B: Specific Contract Requirements

| | |
|---|---|
| GITA Sub-Clause Reference | These particular instructions and related Information Forms (IF) are intended to complement, amend, or supplement the provisions in the GITA.In the event of conflict or ambiguity, the provisions herein shall prevail over those in the GITA. |
| 1.1 | **Scope of Work:**<br><br>Name of Work: **Upgradation of existing 60 MLD Sewage Treatment Plant to ultimate build capacity 80 MLD at Kengeri by Providing Electro-Mechanical and Instrumentation equipments.(2nd Call)** |
| 1.4 | **Type of Contract**<br>Pre-qualification, technical and price proposal.<br>**Item rate Contract**, Time for completion: **12 months.** |
| 1.5 | **Site Information:**<br>Employers Requirements (Vol 2)<br>Site Location: Kengeri, Bangalore, Near Kengeri Metro Station. 77°29′26″ E, 12° 54′ 51″ N, RL (Average) is 783.66 m<br><br>Nearest Airport: Kempegowda International Airport, Bengaluru.<br>Nearest Railway Station: Krantiveera Sangollirayanna Railway Station, Bengaluru.<br><br>The tenderer at his own responsibility and risk is encouraged to visit and examine the Site of Works and its surroundings and obtain all information that may be necessary for planning and preparing the tender and entering into a contract for construction of the works. The costs of visiting the site and any Survey / Site Investigation shall be at the Tenders own expense. **The bidder shall submit a self-declaration stating that the site of work has been visited and ascertained the facts about site conditions, constructional area, rehabilitation works proposed to be taken etc. The confirmation of site visit should be self-certified and to be uploaded as a part of the tender submission.** |
| 4.2 | **Nominated Subcontracting**<br>Not Applicable |
| 4.3, 4.4 | **Subcontracting by Applicant**:<br>Provide information if more than about 10 percent of the Applicant's approximated Tender Price. |
| 4.7 | **General Construction Experience** |
| | a) It has been actively engaged in the civil works construction business for at least the last seven years prior to the date of submission of applications, in the role of prime contractor, partner in a joint venture and |

b) The Tenderer having minimum average annual turnover of INR **54.44 Crores** in any two financial years calculated as total certified payments received for contracts in progress or completed, within the last 5 years (ending 31st Mar'2025). In case of JV in this contract, Lead Partner shall meet minimum 50% of required turnover and partner shall meet minimum 25% of required turnover.

The average annual turnover is defined as the total of certified payment certificates for works in progress or completed by the firm or firms comprising the Tenderers, divided by the number of years

The turnover of previous years shall be given a weight of 10% per year as given below

| Financial Year | Factor |
|---|---|
| 2020-21 | 1.46 |
| 2021-22 | 1.33 |
| 2022-23 | 1.21 |
| 2023-24 | 1.10 |
| 2024-25 | 1.00 |

**Note:** The rates of exchange to be used by the bidder for currency conversion during bid preparation shall be the selling rates for similar transactions prevailing on the date, 28 days prior to the date of bid opening of the Technical Proposal, as published by the Reserve Bank of India. If exchange rates are not so published for the bid currency, the bidder shall state the rates used and the source to be provided.

4.8

**Particular Construction Experience**

**(A) Particular Construction Experience**

a) Tenderers shall provide evidence that it has successfully completed as a Prime Contractor or other Partner in a Joint Venture at least one similar work of

1. Work of supply, erection, testing and commissioning of Electro-Mechanical Equipment's for Sewage Treatment Plants Pumping Stations Machinery amounting to INR 13.61 crores.
2. Work of supply, erection, testing & commissioning of Electro-Mechanical equipment's of the STP capacity of 16

| | |
|---|---|
| | MLD.<br>b) Assessed Available Tender Capacity (A*N*1.5-B) = >27.22 crores<br>c) As the tender is for upgradation of existing plant, to maintain uniformity, easy maintenance of spares and inter changeability of equipment, bidder will have to procure authorization letter for technical support from existing original equipment manufacturer (OEM). |
| 4.9 | **Financial Capabilities**<br>**(a)** Minimum Required Cash Flow Amount: The Tenderers shall demonstrate that it has access to, or has available, liquid assets, unencumbered real assets, lines of credit, and other financial means (independent of any contractual advance payment) sufficient to meet the cash flow requirements for the subject contract in the event of stoppage, start-up, or other delays in payment, of the minimum **INR 6.80 Crores**, net of the Tenderers commitments for other contracts.<br>**(b)** In the relevant Information Form, the Tenderers shall also demonstrate, to the satisfaction of the Employer, that it has adequate sources of finance to meet the cash flow requirements on works currently in progress and for future contract commitments.<br>**(c)** The audited balance sheets or other financial statements acceptable to the Employer, for the last five years shall be submitted and must demonstrate the current soundness of the Tenderers financial position and indicate its prospective long-term profitability. If deemed necessary, the Employer shall have the authority to make inquiries with the Tenderers bankers. As a minimum, a Tenderers net worth calculated as the difference between total assets and total liabilities should be positive.<br>**(d)** Tenderers black listed on Government of India / Government of Karnataka / any other state or any Central/ State Government undertaking are not eligible to bid.<br>**(e)** Tenderer to upload latest Bankers Certificate valid till tender validity. |
| 4.12 | **Personnel Capabilities**<br>The personnel capability Matrix is as indicated below.<br>The Applicant shall provide further details of the proposed personnel and their experience records in the relevant Information Forms 6 and 6A. |

4.13

| Sl. No. | Equipment Type and Characteristic | Minimum Required (Nos.) |
|---|---|---|
| 1 | Crane or Hydra (10 Ton) | 2 |
| 2 | Angle Grinder / Cutter | 2 |
| 3 | Arc Welding Machine | 2 |
| 4 | Oxy-Acetylene Gas cutter | 2 |
| 5 | DG Set 5 kVA | 1 |

a) Availability by owning the following key and critical equipment for this work:

**Equipment Capabilities.** The Tenderer should own, or have assured access (through hire, lease, purchase agreement, availability of manufacturing equipment, or other means) to the equipment /machines listed hereunder and in full working order, and must demonstrate that based on known commitments, they will be available for use in the proposed contract. The Tenderer may also list additional equipment that he would propose for the contract, together with an explanation of the proposal.

4.14 : Personnel Capability Matrix :

| Sl. No. | Position | No of Position | Minimum Education (Degree- Discipline) | Experience (Years) | |
|---|---|---|---|---|---|
| | | | | Total | In Similar Work |
| 1 | Project / Construction Manager | 1 | Electrical/Mechanical Engineering | 10 | 5 |
| 2 | Electrical Engineer | 1 | Electrical Engineering | 5 | 3 |
| 3 | Mechanical Engineer | 1 | Mechanical Engineering | 5 | 3 |

Contractor shall designate a Project Manager who is responsible for the complete Works, and obtaining all required Detailed Design approvals. The Contractor shall mobilize the Electrial and Mechanical Engineers to Site Office in Bengaluru. This Project Manager shall work in coordination with manufacturer and erection team at site.

The Project Manager shall communicate directly with Employer’s staff and its designees throughout the preparation of equipment documents, submittal, review and approval, as well as during the same procedures for submittals for testing and commissioning and all other erection related submittal required in accordance with the Contract. The Site Office Staff in conjunction with the Contractor’s Home office staff will be responsible for timely response to Employer’s comments related to the equipment Designs.

## SECTION 4: INSTRUCTION TO TENDERER

**7.1 Content of Tender Documents**

**7.2** The set of tender documents shall have all the Sections given in Page 2:

**7.3** Both the sets should be completed and returned with the tender.

**8.1 Clarification of Tender Documents**

**8.2** A prospective Tenderer requiring any clarification of the tender documents may notify the Employer in writing or by e mail at the Employer's address indicated in the invitation to tender, and shall inform the Employer's Technical Section for having sent the e mail. The Employer will respond to any request for clarification which he receives earlier than 15 days prior to the deadline for Submission of tenders. Copies of the Employer's response will be forwarded to all purchasers of the tender documents through e-mail, including a description of the enquiry but without identifying its source. Same will be available in the website of e-tender www.kppp.karnataka.gov.in

**8.3 Pre-tender meeting:**

**8.3.1** This Pre-tender Meeting will be held on **23.10.2025 at 16.00** hrs in the Office of the Chief Engineer (WWM-West), BWSSB, 6th floor, Cauvery Bhavan, BWSSB, K G Road, Bangalore 560 009.

**8.3.2** The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage

**8.3.3** The Tenderer is requested to submit any questions in writing or by e mail to reach the Employer not later than one week before the pre bid-meeting.

**8.3.4** Minutes of the meeting, including the text of the questions raised (without identifying the source of enquiry) and the responses given will be transmitted without delay to all purchasers of the tender documents. Any modification of the tender documents listed in Sub-Clause 7.1 which may become necessary as a result of the pre-tender meeting shall be made by the Employer exclusively through the issue of an Addendum pursuant to Clause 9 of ITT and not through the minutes of the pre-tender meeting.

**8.3.5** Non-attendance at the pre-tender meeting will not be a cause for disqualification of a Tenderer.

## 9.0 Amendment of Tender documents

**9.1** Before the deadline for submission of tenders, the Employer may modify the tender documents by issuing addenda.

**9.2** Any **Addendum** thus issued shall be part of the tender documents and shall be communicated in writing or by cable to all the purchasers of the tender documents.

**9.3** To give prospective Tenderers reasonable time in which to take an addendum into account in preparing their tenders, the Employer shall extend as necessary the deadline for submission of tenders, in accordance with Sub-Clause 16.2 below.

## C. PREPARATION OF TENDERS

### 10.1 Documents comprising the Tender

**10.2** The tender submitted in e-procurement by the Tenderer shall contain the documents as follows:

(a) Evidence of Earnest Money Deposit payment;

(b) Scanned copies of Updated Pre-qualification Information as per formats given in Section 3;

(c) The form of Tender (in the format indicated in Section 4) duly signed

(d) Priced Schedule (Section 9);

And any other materials required to be completed and submitted by Tenderers in accordance with these instructions. The documents listed under Sections 3, 4, 6 and 9 shall be filled in without exception.

**10.3** Tenderers submitting tenders together with other contracts stated in the IFT to form a package will so indicate in the tender together with any discounts offered for the award of more than one contract.

### 11.1 Tender Prices

**11.2** The contract shall be for the whole works as described in Sub-Clause 1.1, based on the priced Bill of Quantities (Price Schedule) submitted by the Tenderer.

**11.3** The Tenderer shall fill in the unit rates in figures for all items of the Works described in the Price Schedule. Items for which no rate is entered by the Tenderer will not be paid for by the Employer when executed and shall be deemed covered by the other rates in the Price Proposal.

**11.4** All taxes, duties, and other levies payable by the contractor under the contract, or for any other cause, shall be included in the rates, prices and total Tender Price submitted by the Tenderer. The tenderer shall not consider any exemption related to taxes and duties while quoting their price.

**11.5** The prices quoted by the Tenderer shall be subject to adjustment during the performance of the Contract in accordance with the provisions of Clause of the Conditions of Contract.

**12.1 Tender Validity**

**12.2** Tenders shall remain valid for a period not less than Ninety (90) days after the deadline date for tender submission specified in Clause 16. **A tender valid for a shorter period shall be rejected by the Employer as non- responsive.**

**12.3** In exceptional circumstances, prior to expiry of the original time limit, the Employer may request that the Tenderers may extend the period of validity for a specified additional period. The request and the Tenderers' responses shall be made in writing or by cable (e Mail). A Tenderer may refuse the request without forfeiting his Earnest Money Deposit. A Tenderer agreeing to the request will not be required or permitted to modify his tender, but will be required to extend the validity of his Performance Security deposit for a period of the extension, and in compliance with Clause 13 in all respects.

**13.1 Earnest Money Deposit (EMD)**

**13.2** The Tenderer shall furnish, as part of his tender, Earnest Money Deposit / Performance Security in the amount as shown in column 5 of the Table 1 of IFT for this particular work. Earnest Money Deposit will have to be paid in any one for the forms as specified in the tender document.

**13.3** The Tenderer can pay the Earnest Money Deposit (EMD) in the e-procurement portal using any of the following Modes:

**Firms having got EMD forfeited / blacklisted in the last 5 years, in previous contracts/bids, shall be disqualified.**

**NEFT Payment Procedure**

If a contractor/supplier chooses to make payment of EMD/tender processing fees using Reserve Bank of India's (RBI) National Electronic Fund Transfer (NEFT) system, the contractor/supplier will need to log into e-Procurement system, access the tender for which bid is being created and then select the NEFT option under the payment section and print the Challan shown in that section. The printed challan will have the unique bid reference number, account details of Government of Karnataka and the amount to be remitted.

The contractor has to submit the printed challan to its bank-branch (NEFT enabled) and request for an account-to-account transfer, wherein the money will get transferred from the contractors' bank account to GoK's bank account. The contractor should ensure that NEFT transfer instructions are executed and the funds are wired to the Government of Karnataka's principal account before the last date for bid submission and preferably 24 hours before the last date for bid submission. If the contractor's bank transfers/wires the money after the last date for bid submission, the contractor’s bid will be liable for rejection.

Upon executing the transfer, the contractor's bank will provide a reference number generated by NEFT software as confirmation of transfer, which has to be inputted by contractor in the payment section of its bid as payment confirmation before the bid is submitted (i.e.) as a pre-requisite for bid submission. Also, the account number from which the funds were transferred have to be inputted in the e-Procurement system as part of its bid.

The Tenderer bid will be evaluated only on confirmation of receipt of the payment (EMD) in the Government of Karnataka central pooling a/c.

EMD amount will have to be submitted by the supplier/contractor taking into account the following conditions:

a. EMD will be accepted only in the form of electronic cash (and not through Demand Draft or Bank Guarantee) and will be maintained in the Govt.'s central pooling account until the contract is closed.
b. The entire EMD amount for a particular tender has to be paid in a single transaction

For further details on e-Payment services refer to e-procurement portal for more details on the process.

**13.4** The Earnest Money Deposit of unsuccessful Tenderers will be returned within 30 days of the end of the tender validity period specified in Sub-Clause 12.1.

**13.5** The Earnest Money Deposit of the successful Tenderer will be discharged when the Tenderer has signed the Agreement and furnished the required Performance Security.

**13.6** The Earnest Money Deposit may be forfeited:

(a) if the Tenderer withdraws the Tender after tender opening during the period of tender validity;
(b) if the Tenderer does not accept the correction of the Tender Price, pursuant to Clause 24; or
(c) in the case of a successful Tenderer, if the Tenderer fails within the specified time limit to
(i) sign the Agreement; or
(ii) furnish the required Security deposit

**14.1 Format and signing of Tender**

**14.2** The completed bid comprising of documents indicated in ITB 10, should be uploaded in the e-procurement wizard of Government of Karnataka through—e-portal along with scanned copies of requisite certificates those are mentioned in different sections in the bid document and EMD shall be paid through NEFT/RTGS through e-portal only.

**14.3** All the documents should be uploaded to the e-procurement wizard of GOK. Tenderer should take a print out of the declaration letters provided in the website on company letter head and should sign, stamp and upload the same to the e-procurement wizard.

**14.4** Deleted.

**14.5** Tender shall be signed by a person or persons duly authorized to sign on behalf of the Tenderer.

## D. SUBMISSION OF TENDERS

**15.1 Uploading and Submission of Tenders**

**15.2 The tenders should be uploaded only through e-portal system**. Tender should contain

**15.2.1 A. Technical Tender consisting of following**:

a. All the documents with required details in prescribed format; those are mentioned in different sections in the Tender. Form of Tender, Declaration statement regarding Customs/ Excise duty exemption for materials/ construction equipment brought to site as mentioned in Section 2, etc., shall be downloaded, filled with required details, signed, scanned & uploaded to the e-procurement website **www.kppp.karnataka.gov.in** on or before the time and date indicated in notification /Section I IFT.

b. **Tender security (Earnest money deposit).** Tender security can be paid in the form of NEFT/RTGS in e-procurement of Gov. of Karnataka.

The above documents along with notarized copies of documentary evidences as indicated in Section -2 ITT, Section-3 Qualification information & Section 4 Forms of Tender shall be scanned and uploaded to the website compulsorily, failing which tender will be rejected in view of incomplete bid document and

**15.2.2 B. Financial Tender consisting of Price Schedule:** The Tenderer shall download the Price Schedule and key in the rates (in figures only) in the Price Schedule sheet and upload the same file on to the website on or before the time and date indicated in notification /Section 1 IFT.

In case of failure of the Tenderer to upload the same within stipulated time i.e., dated: 0**5.11.2025 upto 17.00 hours**, their tender will be rejected.

**NOTE:**

1. URL of the Website for tender submission through e-Procurement & Address for uploading of Tender security are as follows:

i **www.kppp.karnataka.gov.in.**

ii The Chief Engineer (WWM-West), BWSSB, 6th floor, Cauvery Bhavan, KG Road, Bangalore – 560 009, Telephone: 080-22945106

2. The details related to submission of tenders, downloading / uploading of documents or other details are available online in the help wizard, Vendor manual & FAQ of above website.

**15.3 Deleted**

**15.4 Unique** Identification Number will be automatically generated by the server with time-stamp and sent to the account of the bidder as an acknowledgement after bidder finally uploads the bids.

**16.1 Deadline for submission of the Tenders**

**16.2** Tenders must be received by the Employer through e-procurement web-site (www.kppp.karnataka.gov.in) as specified above no later than the time and date mentioned in IFT Clause 4.

**16.3** The Employer may extend the deadline for submission of tenders by issuing an amendment in accordance with Clause 9.0, in which case all rights and obligations of the Employer and the Tenderers previously subject to the original deadline will then be subject to the new deadline.

**17.1 Late Tenders**

**17.**2 The software of e-procurement system will not allow the Bidder to upload the documents after expiration of the stipulated date & time of Bid submission. The Bidder shall refer the server time, which will be displayed in the e-procurement portal. Employer will not be responsible for non-receipt of bids on the stipulated date & time prescribed in clause 16, due to Internet Problems, improper uploading or any other related problems. In case of connectivity problems, Tenderer may contact Help desk of the e-tender service provider and may also draw the attention of tender inviting authority.

**18.1 Modification and Withdrawal of Tenders**

**18.2** Tenderers may modify and withdraw their tenders' multiple numbers of times, until the deadline for submission of tenders by operating the relevant provision made in e-tendering. If the Tenderer withdraws the tender before the deadline for submission of tenders and later if he is

interested to submit the tender once again, may do so within the stipulated date & time as mentioned in Clause 16

**18.3** Deleted.

**18.4** No Tender may be modified after the deadline for submission of Tenders.

**18.5** Withdrawal or modification of a Tender between the deadline for submission of Tenders and the expiration of the original period of Tender validity specified in Clause 12.1 above or as extended pursuant to Clause 12.2 may result in the forfeiture of the earnest money deposit pursuant to Clause 13.

**18.6 Deleted**

## E. TENDER OPENING AND EVALUATION

**19.1 Opening of First Cover (Technical Proposal) of Tenders and Evaluation to determine Qualified Tenderers:**

**19.2** The Employer will open the Technical Proposals of all the Tenders received, including modifications made pursuant to Clause 18, in the presence of the Tenderers or their representatives who choose to attend on the date and the place specified in Clause 16. In the event of the specified date of Tender opening being declared a holiday for the Employer, the Tenders will be opened at the appointed time and location on the next working day.

**19.3** The Tenderers names, Earnest Money Deposit (amount, format and validity), the submission of updated Pre-qualification information and such other information as the Employer may consider appropriate will be announced by the Employer at the opening.

**19.4** The Employer shall prepare minutes of the Tender opening, including the information disclosed to those present in accordance with Sub-Clause 19.2.

**19.5** The Price Tenders of all the Tenderers including modifications for price tenders cannot be opened as this is programmed to open later after evaluation of the technical details of the participating Tenderers.

**19.6** The Employer will evaluate and determine whether each tender (a) meets the eligibility criteria defined in ITT Clause 2; (b) is accompanied by the required earnest money deposit as per stipulations in ITT Clause 13 and (c) meets the minimum qualification criteria stipulated in the pre-qualification documents, to confirm that the minimum qualification requirements are still being met in ITT Clause 3. The Employer will draw out a list of qualified Tenderers.

**20.1 Opening of Second Cover of Qualified Tenderers and Evaluation.**

**20.2** The Employer will inform all the Qualified Tenderers the time, date and venue fixed for the opening of the price proposals. The Employer will open the price proposal of Qualified Tenderers at the appointed time and date in the presence of the Tenders or their representatives who choose to attend. In the event of the specified date of Price proposal opening being declared a holiday for the Employer, the price tenders will be opened at the appointed time and location on the next working day.

**20.3** The Tenderers' names, the Tender prices, the total amount of each Tender, any discounts, Tender modifications and such other details as the Employer may consider appropriate, will be announced by the Employer at the opening. No Tender shall be rejected at Tender opening.

**20.4** The Employer shall prepare minutes of the Price Tender opening, including the information disclosed to those present in accordance with Sub-Clause 20.2.

**21.1 Process to be confidential**

**21.2** Information relating to the examination, clarification, evaluation, and comparison of Tenders and recommendations for the award of a contract shall not be disclosed to Tenderers or any other persons not officially concerned with such process until the award to the successful Tenderer has been announced. Any effort by a Tenderer to influence the Employer's processing of Tenders or award decisions may result in the rejection of his Tender.

**22.1 Clarifications of Tenders**

**22.2** To assist in the examination, evaluation, and comparison of Tenders, the Employer may, at his discretion, ask any Tenderer for clarification of his Tender, including breakdowns of unit rates. The request for clarification and the response shall be in writing or by cable, but no change in the price or substance of the Tender shall be sought, offered, or permitted except as required to confirm the correction of arithmetic errors discovered by the Employer in the evaluation of the Tenders in accordance with Clause 24.

**22.3** Subject to sub-clause 22.1, no Tenderer shall contact the Employer on any matter relating to its Tender from the time of the Tender opening to

the time the contract is awarded. If the Tenderer wishes to bring additional information to the notice of the Employer, it should do so in writing.

**22.4** Any effort by the Tenderer to influence the Employer in the Employer‘s Tender evaluation, Tender comparison or contract award decisions may result in the rejection of the Tenderers‘Tender.

**23.1 Examination of Tenders and determination of responsiveness**

**23.2** Prior **to** the detailed evaluation of Tenders, the Employer will determine whether each Tender; (a) has been properly signed; and; (b) is substantially responsive to the requirements of the Tender documents.

**23.3** A substantially responsive Tender is one which conforms to all the terms, conditions, and specifications of the Tender documents, without material deviation or reservation. A material deviation or reservation is one (a) which affects in any substantial way the scope, quality, or performance of the Works; (b) which limits in any substantial way, inconsistent with the Tender documents, the Employer's rights or the Tenderer's obligations under the Contract; or (c) whose rectification would affect unfairly the competitive position of other Tenderers presenting substantially responsive Tenders.

**23.4** If a Tender is not substantially responsive, it will be rejected by the Employer, and may not subsequently be made responsive by correction or withdrawal of the nonconforming deviation or reservation.

**24.1 Correction of Errors**

**24.2** This Clause may not applicable for e-Procurement since Price Proposal will be submitted in electronic format.

**25.1 Evaluation and Comparison of Tenders**

**25.2** The Employer will evaluate and compare only the Tenders determined to be substantially responsive in accordance with Clause 23.

**25.3** In evaluating the Tenders, the Employer will determine for each Tender the evaluated Tender Price by adjusting the Tender Price as follows:

(a) making any correction for errors pursuant to Clause 24; and

(b) Employer will determine the lowest evaluated bid based on methodology set forth in Section 3, —Methodology for Price Bid Evaluation.

**25.4** The Employer reserves the right to accept or reject any variation and deviation. Variations, deviations, and other factors which are in excess of the requirements of the Tender documents or otherwise result in unsolicited benefits for the Employer shall not be taken into account in Tender evaluation.

**25.5** The estimated effect of the price adjustment conditions under Clause 40 of the Conditions of Contract, during the implementation of the Contract, will not be taken into account in tender Evaluation

**25.6** If the tender of the successful Tenderer is seriously unbalanced in relation to the Employer‘s estimate of the cost of the work to be performed under the contract, the Employer may require the Tenderer to produce detailed price analyses for any or all items of the Bill of Quantities, to demonstrate the internal consistency of those prices with the construction methods and schedule proposed. After evaluation of the price analyses, the Employer may
require that the amount of the performance security set forth in Clause 29 of ITT be increased at the expense of the successful Tenderer to a level sufficient to protect the Employer against financial loss in the event of default of the successful under the contract.

## F. AWARD OF CONTRACT

**26.1 Award criteria**

**26.2** Subject to Clause 27, the Employer will award the Contract to the Tenderer whose Tender has been determined to be substantially responsive to the Tender documents and who has offered the **lowest evaluated Tender Price**, provided that such Tenderer has been determined to be (a) eligible in accordance with the provisions of Clause 2, and (b) qualified in accordance with the provisions of Clause 3.

**27.1 Employer's right to accept any Tender and to reject any or all Tenders**

**27.2** Notwithstanding Clause 26, the Employer reserves the right to accept or reject any Tender, and to cancel the Tender process and reject all Tenders, at any time prior to the award of Contract, without thereby incurring any liability to the affected Tenderer or Tenderers or any obligation to inform the affected Tenderer or Tenderers of the grounds for the Employer's action.

**28.1 Notification of award and signing of Agreement**

**28.2** The Tenderer whose Tender has been accepted will be notified of the award by the Employer prior to expiration of the Tender validity period by cable, telex, e-mail or facsimile confirmed by registered letter. This letter (hereinafter and in the Conditions of Contract called the "Letter of Acceptance") will state the sum that the Employer will pay the Contractor in consideration of the execution, completion, and maintenance of the Works by the Contractor as prescribed by the Contract (hereinafter and in the Contract called the "Contract Price").

**28.3** The notification of award will constitute the formation of the Contract, subject only to the furnishing of Security deposit in accordance with the provisions of Clause 29.

**28.4** The Agreement will incorporate all agreements between the Employer and the successful Tenderer. It will be kept ready for signature of the successful Tenderer in the office of Employer within 30 days following the notification of award along with the Letter of Acceptance. Within 20 days of receipt, the successful Tenderer will sign the Agreement and deliver it to the Employer.

**28.5** Upon the furnishing by the successful Tenderer of the Performance Security, the Employer will promptly notify the other Tenderers that their Tenders have been unsuccessful.

**29.1 Security Deposit**

**29.2** Within **20 days** of receipt of the Letter of Acceptance, the successful Tenderer shall deliver to the Employer a Security deposit in any of the forms given below for an amount equivalent to **5%** of the Works Contract Price, plus additional security for unbalanced tenders in accordance with Clause 25.5 of ITT and Clause 44 of the Conditions of Contract.

- Banker’s cheque/ Demand draft/Pay Order in favor of **The Chairman, BWSSB** payable at Bangalore or
- A Bank Guarantee in the form given in Section 10; or

**29.3** If the Security Deposit is provided by the successful Tenderer in the form of a Bank Guarantee, it shall be issued either by a Nationalized/Scheduled bank.

**29.4** The Security Deposit if furnished in cash or demand draft can, if requested, be converted to interest bearing securities at the cost of the contractor.

**29.5** Failure of the successful Tenderer to comply with the requirements of Sub-Clause 29.1 shall constitute sufficient grounds for cancellation of the award and forfeiture of the Earnest Money Deposit.

**30.1 Advance Payments and Security:**

**30.2** The Employer will provide an advance payment on the contract price as stipulated in the Conditions of Contract, subject to the maximum amount as stated in the Contract Data.

**31.1 Corrupt or Fraudulent practices**

**31.2** The GOK requires that the Tenderers/Suppliers/Contractors, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, GOK:

(a) will reject a proposal for award if it determines that the Tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question;

(b) will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded a GOK contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing, a GOK/GoI/ Public Under taking contract.

**31.3** Further more, Tenderers shall be aware of the provision stated in sub-clause50.2 of the Conditions of Contract.

# QUALIFICATION INFORMATION AND EVALUATION METHODOLOGY

**LETTER OF APPLICATION**

*Note: Spaces marked*on this and on subsequent forms are to be completed by the Employer*

*[letter head paper of the Applicant or partner responsible for a joint venture, including full postal address, and telephone, facsimile and telex numbers, and cable address]*

Date:_____

To: Office of the Chief Engineer (WWM-West),
6th Floor, Cauvery Bhavan,

K. G. Road, Bangalore-560 009,
Ph: 91-80-22945106
Email id: cewwm@bwssb.org
Telephone: +91-80-22945106

**Name of Work: Upgradation of existing 60 MLD Sewage Treatment Plant to ultimate build capacity 80 MLD at Kengeri by Providing Electro-Mechanical and Instrumentation equipments.**

1. Being duly authorized to represent and act on behalf of_____(here in after referred to as "the Applicant"), and having reviewed and fully understood all of the pre-qualification requirements and information provided, the undersigned hereby applies for pre-qualification to tender on the contract or contracts indicated below:

**Note: If pre-qualification refers to only one contract, delete the following paragraph and table, and insert the single contract reference and title.*

**We have indicated (by signature) in column (3) below our preference for individual contract consideration ,or for any combination there of within our pre-qualified capacity as assessed by you.

| Contract reference*(1) | Contract title*(2) | Preferred individual contract (3) |
|---|---|---|
| 1. | | |
| 2. | | |
| 3. | | |
| 4.<br>etc. | | |

*[See Annexure for the suggested number of slices]*

2. Attached to this letter are copies of original documents defining[2]:

(a) The Applicant's legal status;

(b) The principal place of business; and

[2]For applications by joint ventures, all the information requested in the pre-qualification documents is to be provided for the joint venture, if it already exists and for each party to the joint venture separately. The partner in charge should be clearly identified. Each partner in the joint venture shall sign the letter.

(c) The place of incorporation (for Applicants that are corporations), or the place of registration and the nationality of the owners (for Applicants that are partnerships or individually owned firms).

3. With reference to GITA Sub-Clause4.3, it is our intention to subcontract approximately percentage of the Tender/ Contract Price, details of which are provided herein.

4. Your Agency and its authorized representatives are hereby authorized to conduct any inquiries or investigations to verify the statements, documents, and information

submitted in connection with this application, and to seek clarification from our bankers and clients regarding any financial and technical aspects. This Letter of Application will also serve as authorization to any individual or authorized representative of any institution referred to in the supporting information to provide such information deemed necessary and as requested by yourselves to verify statements and information provided in this application, such as their sources, experience, and competence of the Applicant.

5. Your Agency and its authorized representatives may contact the following persons for further information[3]:

| General and managerial inquiries | |
|---|---|
| Contact1 | Address and communication facilities |
| Contact2 | Address and communication facilities |

| Personnel inquiries | |
|---|---|
| Contact1 | Address and communication facilities |
| Contact2 | Address and communication facilities |

| Technicalinquiries | |
|---|---|
| Contact1 | Address and communication facilities |
| Contact2 | Address and communication facilities |

| Financialinquiries | |
|---|---|
| Contact1 | Address and communication facilities |
| Contact2 | Address and communication facilities |

[3] Applications by joint ventures should provide on a separate sheet equivalent information for each party to the application.

6. This application is made with the full understanding that:

(a) Tenders by pre-qualified Applicants will be subject to verification of all information submitted for pre-qualification at the time of submission of tenders;

(b) Your Agency reserves the right to:

- amend the scope and value of any contracts to be tendered under this project; in which event, tenders will be invited only from those Applicants who meet the resulting amended pre-qualification requirements; and
- reject or accept any application, cancel the pre-qualification process, and reject all applications.

(c) Your Agency shall not be liable for any such actions under 6 (b) above.

8. We confirm that if we tender, that tender, as well as any resulting contract, will be:

(a) Signed so as to legally bind all partners, jointly and severally; and
(b) Submitted with a joint venture agreement providing the joint and several liability of all partners in the event the contract is awarded to us.

9. The undersigned declare that the statements made and the information provided in the duly completed application are complete, true, and correct in every detail.

| | |
|---|---|
| Signed<br><br>Name | Signed<br><br>Name |
| For and on behalf of (name of Applicant or partner in charge of a joint venture) | For and on behalf of (name of partner) |

| | |
|---|---|
| Signed<br><br>Name | Signed<br><br>Name |
| For and on behalf of (name of partner) | For and on behalf of (name of partner) |

| | |
|---|---|
| Signed<br><br>Name | Signed<br><br>Name |
| For and on behalf of (name of partner) | For and on behalf of (name of partner) |

[4]The attention of Applicants is drawn to GITA sub-clause 5.6 regarding Letters of Intent.

**INFORMATION FORMS**

Supplementary information may be provided by Applicants as deemed necessary.

*These basic Information Forms should be finalized by the Employer with appropriate minor changes to suit the particular pre-qualification requirements of the specific contractor contracts*

INFORMATION FORM (1)

# General Information

All individual firms and each partner of a joint venture applying for pre-qualification are requested to complete the information in this form. Nationality information should be provided for all owners or Applicants that are partnerships or individually owned firms.

Where the Applicant proposes to use named subcontractor (for more than 10% of contract value) as also for highly specialized components of the Works (reference Sub-Clause 4.3, 4.4 of the GITA), the following information should also be supplied for the subcontractor(s),together with the information in Forms2,3,3A,4,5,and7.

| | | |
|---|---|---|
| 1. | Name of firm | |
| 2. | Head office address | |
| 3. | Telephone | Contact |
| 4. | Fax | Telex |
| 5. | Place of incorporation/registration | Year of incorporation/registration |

| Nationality of owners[1] | | |
|---|---|---|
| | Name | Nationality |
| 1. | | |
| 2. | | |
| 3. | | |
| 4. | | |
| 5. | | |

# APPLICATION FORM(1A)

## Structure and Organization

1. The applicant is _____

   (a) An individual
   (b) a proprietary firm
   (c) a firm in partnership
   (d) a Limited Company or Corporation

2. Attach the organization Chart showing the Structure of the organization, including the Names of the directors and position of officers. _____

3. Number of years ofexperience:
   (a) as a Prime Contractor (contractor shouldering major responsibility) ----------
   (b) as a Management Contractor _____
   (c) as sub-contractor (specify main contractor) _____

4. For how many years has your organization been in Business of similar work under its present name? _____
   Whatwere your fields when your organization was Established? Whether any new fields were added in Your organization?And if so, when? _ _____ _____

5. Were you ever required to suspend construction For a period of more than six months continuously After you started? If so, give the name of project and give reasons there for. .....

6. Have you ever left the work awarded to you incomplete? (If so, give name of project and Reasons for not completing work.) .....

7. In which fields of engineering Do you claim specialization and interest? .....

8. Give details of your experience in Electro Mechanical Engineering works .....

INFORMATION FORM (2)

# General Construction Experience Record

(ref. GITA Sub-Clause4.7)

| Name of Applicant |
|---|
| |

All individual firms are requested to complete the information in this form with regard to the management of Works contracts generally. The information supplied should be the annual turnover of the Applicant in terms of the amounts billed to clients (in Rs. Lakhs) for each year for work in progress or completed. The annual periods should be the completed financial years.

A brief note on each contract should be appended, describing the nature of the work, duration and amount of contract, managerial arrangements, Employer, and other relevant details.

Applicants should not enclose testimonials, certificates, and publicity material with their applications; they will not be taken into account in the evaluation of qualifications.

| Year* | Turnover (Rs. Lakhs) |
|---|---|
| 1. | |
| 2. | |
| 3. | |
| 4. | |
| 5. | |

INFORMATION FORM(3)

# Particular Construction Experience Record

(ref. GITA Sub-Clause4.8)

| Name of Applicant |
| --- |
| |

To pre-qualify, the Applicant shall be required to pass the specified requirements applicable to this form, as set out in the PITA.

On separate pages, using the format of Form(3A), the Applicant is requested to list contracts of a similar nature, complexity, and requiring similar construction technology to the contract or contracts for which the Applicant wishes to qualify, and which the Applicant has undertaken during the period, and of the number, stated in 4.8 of the PITA. The applicant should provide details of similar contracts on which they have experienced.The contract value should be based on the payment, at the date of substantial completion, or for ongoing contracts at the time of award. The information is to be summarized, using Form(3A),for each contract completed or under execution, by the Applicant or by each partner of a joint venture.

Where the Applicant proposes to use named subcontractors for highly specialized elements of the Works(reference Sub-Clause 4.4 of the GITA), the information in the following forms should also be supplied for each subcontractor (or alternate, if any).

INFORMATION FORM(3A)

# Details of Contracts of Similar Nature and Complexity

| Name of Applicant |
|---|
| |

Use a separate sheet for each contract.

| | | |
|---|---|---|
| 1. | Number of contracts | |
| | Name of contract | |
| | Country | |
| 2. | Name of Employer: | |
| 3. | Employer address: | |
| 4. | Nature of works and special features relevant to the contract for which the Applicant wishes to pre-qualify | |
| 5. | Contractrole(checkone)<br>□Primecontractor □Management contractor □Subcontractor □Partnerinajointventure | |
| 6. | Amount of the total contract (at completion, or at date of award for current contracts) Rs. | |
| 7. | Total contract: Rs. Lakhs_____; Subcontract: Rs.Lakhs_____;Partner share:Rs. Lakhs__ | |
| 8. | Date of award/completion | |
| 9. | Contract was completed___months ahead/behind original schedule (if behind, provide explanation). | |
| 10. | Contract was completed Rs. Lakhs under/over original contract amount(if over, provide explanation). | |
| 11.<br>* | Special contractual/constructional requirements, including monthly/annual production rates of the key construction activities described in PITA4.8 | |
| 12. | Indicate the approximate percent of total contract value of work undertaken by subcontract, if any, and the nature of such work. | |

* *Attach specific formats for the information required.*

# Details of Production Levels in Key Construction Activities (Sl. No. 11 of Information Form 3A)

| | Name of Contract | Employer Contact Address,Agreement No. and Date | Value (Rs.Lakhs) | Year[5] | Quantities Executed | | | |
|---|---|---|---|---|---|---|---|---|
| 1 | | | | 20-21<br>21-22<br>22-23<br>23-24<br>24-25 | | | | |
| 2. | | | | | | | | |
| 3. | | | | | | | | |

INFORMATIONFORM (4)

# Summary Sheet: Current Contract Commitments/Works in Progress

| Name of Applicant |
|---|
| |

Applicant should provide information on their current commitments on all contracts that have been awarded, or for which a letter of intent or acceptance has been received, or for contracts approaching completion, but for which an unqualified, full completion certificate has yet to be issued.

| Name of contract | Employer, contact address/tel/fax | Value of outstanding work (Rs.Lakhs) | Estimated completion date | Average monthly invoicing over last six months (Rs.Lakhs) |
|---|---|---|---|---|
| 1. | | | | |
| 2. | | | | |
| 3. | | | | |
| 4. | | | | |
| 5. | | | | |
| etc. | | | | |

In accordance with GITA Sub-Clause 4.10, the Applicant shall provide evidence (in a similar manner to the requirements of Sub-Clause 4.9) to substantiate the adequacy of the sources of finance to meet the Applicant’s cash flow requirements on the above contracts.

INFORMATION FORM(5)

## Financial Capabilities

Applicant shall provide financial information to demonstrate that they meet the requirements stated in the GITA. If necessary, separate sheets shall be used to provide complete banker information. A copy of the audited balance sheets shall be attached.

Autonomous construction subdivisions of parent conglomerate businesses shall submit financial information related only to the particular activities of the subdivision.

| | | |
|---|---|---|
| Banker | Name of banker | |
| | Address of banker | |
| | Telephone | Contact name and title |
| | Fax | Telex |

Summarize actual assets and liabilities in Rs. Lakhs for the previous five calendar years, or such period as stated in PITA4.11. Based upon known commitments, summarize projected assets and liabilities in Rs. Lakhs for the next two calendar years, unless the withholding of such information by stock market listed public companies can be substantiated by the Applicant.

| Financial information in Rs.Lakhs | Actual: Previous five years | | | | | Projected: Next two years | |
|---|---|---|---|---|---|---|---|
| | 5. | 4. | 3. | 2. | 1. 0 | 1 | 2 |
| 1.Total assets | | | | | | | |
| 2.Current assets | | | | | | | |
| 3.Total liabilities | | | | | | | |
| 4.Current liabilities | | | | | | | |
| 5.Profits before taxes | | | | | | | |
| 6.Profits after taxes | | | | | | | |

Specify proposed sources of financing, such as liquid assets, unencumbered real assets, lines of credit, and other financial means, net of current commitments, available to meet the total construction cash flow demands of the subject contractor contracts as indicated in GITA 4.9.

| Source of financing | Amount (Rs.Lakhs) |
|---|---|
| 1. | |
| 2. | |
| 3. | |
| 4. | |

Attach audited financial statements—including, as a minimum, profit and loss account, balance sheet, and explanatory notes—for the period stated in PITA 4.11.

INFORMATION FORM(5A)

# FORMAT FOR EVIDENCE OF ACCESS TO OR AVAILABILITY OF OVER DRAFT/CREDIT FACILITIES

## BANK CERTIFICATE

This is to certify that M/s_____is/ are reputed company with a good financial standing.

If the contract for the work, namely_____is awarded to the above firm, we shall be able to provide overdraft/credit facilities to the extent of Rs._____To meet their working capital requirements for executing the above contract.

--Sd/--

Name of the Bank
Address of the Bank

INFORMATION FORM (6)

# Personnel Capabilities

| Name of Applicant |
|---|
| |

For specific positions essential to contract management and implementation, Applicants should provide the names of at least two candidates qualified to meet the specified requirements stated for each position. The data on their experience should be supplied on separate sheets using one Form(6A)for each candidate.

Applicants may propose alternative management and implementation arrangements requiring different key personnel, whose experience records should be provided.

| | |
|---|---|
| 1. | Title of position* |
| | Name of prime candidate |
| | Name of alternate candidate |
| 2. | Title of position* |
| | Name of prime candidate |
| | Name of alternate candidate |
| 3. | Title of position* |
| | Name of prime candidate |
| | Name of alternate candidate |
| 4. | Title of position* |
| | Name of prime candidate |
| | Name of alternate candidate |

**AslistedinPITA4.12.*

INFORMATION FORM(6A)

## Candidate Summary

| Name of Applicant |
|---|
| |

| | | |
|---|---|---|
| Position | | Candidate<br>☐Prime ☐Alternate |
| Candidate information | Name of candidate | Dateofbirth |
| | Professional qualifications | |
| Present employment | Name of employer | |
| | Address of employer | |
| | Telephone | Contact (manager/personnel officer) |
| | Fax | Telex |
| | Job title of candidate | Years with present employer |

Summarize professional experience over the last twenty years, in reverse chronological order. Indicate particular technical and managerial experience relevant to the project.

| From | To | Company/Project/Position/Relevant technical and management experience |
|---|---|---|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

INFORMATION FORM (7)

# Equipment Capabilities

(ref.GITASub-Clause4. 13)

| Name of Applicant |
|---|
| |

The Applicant shall provide adequate information to demonstrate clearly that it has the capability to meet the requirements for each and all items of equipment listed in the PITA 4.13. A separate Form (7) shall be prepared for each item of equipment listed in the PITA, or for alternative equipment proposed by the Applicant.

| Item of equipment | | |
|---|---|---|
| Equipment information | Name of manufacturer | Model and power rating |
| | Capacity | Year of manufacture |
| Current status | Current location | |
| | Details of current commitments | |
| Source | Indicate source of the equipment<br>☐Owned ☐Rented ☐Leased ☐Specially manufactured | |

Omit the following information for equipment owned by the Applicant or partner.

| Owner | Name of owner | |
|---|---|---|
| | Address of owner | |
| | Telephone | Contact name and title |
| | Fax | Telex |
| Agreements | Details of rental/lease/manufacture agreements specific to the project | |

# Litigation History

(ref.GITASub-Clause4.14)

| Name of Applicant |
|---|
| |

Applicant shall provide information on any history of litigation or arbitration resulting from contracts executed in the last five years or currently under execution.

| Year | Award FOR or AGAINST Applicant | Name of client, cause of litigation, and matter in dispute | Disputed amount (current value Rs.lakhs) |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |
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| | | | |
| | | | |

## METHODOLOGY FOR PRICE BID EVALUATION

Under Sub-Clause 25.2 of ITT, the following Methodology will be adopted to find the lowest evaluated cost of the plant:

### a) Determination / Evaluation of Capital Cost

Total cost of the works will be evaluated based on technical requirements as well as price quoted by each bidder.

### b) Final Determination of bids

 Computed evaluated capital cost (a) will be considered to determine the lowest evaluated bid.

### Technical Proposal (to include the following sections also)

### Site Organization

(S*ite organization should contain the organogram of the staff proposed to be deployed in the site for managing the contract. Separate charts shall be included for the design, construction and operation and maintenance works*)

### Method Statement

*(Method statement should indicate the approach and methodology to execute each major activities of the project which shall include usage of material, equipment, manpower and other resources. The method statements will indicate the quality assurance and safety procedures envisaged to be followed in the work)*

### Mobilization Schedule

*(Mobilization schedule will indicate the details of initial mobilization of staff, equipment and materials along with the initial works to be undertaken. The number of staff that would be deployed for the initial period of one month to be indicated. The schedule of deployment of design staff for the design work also should be indicated)*

### Construction Schedule

*(The physical and financial progress (cash flow) schedule to be given)*

### Personnel

*(The details of the personnel to be given as per the format given in the document)*

### Equipment

*(The details of the equipment to be provided to be given in the format. Details of ownership, whether hired or own should be mentioned.)*

**Proposed Subcontractors for Major Items of Plant and Services**

*(The details of the subcontractors along with their experience in the proposed work to be given)*

**Time Schedule**

(*Separate schedules shall be indicated in the bid for design, construction and Operation and Maintenance*. Various milestone dates to be given in the respective schedules.)

# FORM OF TENDER

**Name of Work: Upgradation of existing 60 MLD Sewage Treatment Plant to ultimate build capacity 80 MLD at Kengeri by Providing Electro-Mechanical and Instrumentation equipments. (2nd Call)**

To : _____

Address :_____
_

Sir,

We offer to Design and Execute the Works described above in accordance with the Conditions of Contract accompanying this Tender for the Contract Price uploaded for this tender to be opened after qualification.

We understand that you are not bound to accept the lowest or any Tender you receive.

We undertake that, in competing for (and, if the award is made to us, in executing) the above contract, we will strictly observe the laws against fraud and corruption in force in India namely —Prevention of Corruption Act 1988.

We hereby confirm that this Our Proposal complies with tender requirement and Tender complies with the Tender validity and Earnest money deposit required by the Tender documents.

We attach herewith our current income-tax clearance certificate.

Yours faithfully,

Authorized Signature:

Name & Title of Signatory:
_____

Name of Tenderer_____

Address: ----------

**LETTER OF ACCEPTANCE**

Grams : —Water Sup‖ Bangalore
O/o Chief Engineer (WWM-West),
Cauvery Bhavan, Bangalore 560009

Phone: 080 – 2294 5106

**BANGALORE WATER SUPPLY AND SEWERAGE BOARD**

**No.** **Date:**

To
: _____[name and address of the Contractor]

Dear Sirs,

This is to notify you that your Tender dated .....for the **Upgradation of existing 60 MLD Sewage Treatment Plant to ultimate build capacity 80 MLD at Kengeri by Providing Electro-Mechanical and Instrumentation equipments (2nd Call)**

for the Contract Price of INR ( ) [amount in words and figures], as corrected and modified in accordance with the Instructions to Tenderer‘s is hereby accepted by our Agency.

You are hereby requested to furnish Security deposit plus additional security for unbalanced tenders in terms of Clause 25.5 of ITT, in the form detailed in Clause 29.1 of ITT for an amount of INR.—————— within 20 days of the receipt of this letter of acceptance valid up to 30 days from the date of expiry of Defects Liability Period i.e. up to ..... and sign the contract, failing which action as stated in Para 29.4 of ITT will be taken.

Yours faithfully,

**Chief Engineer (WWM-West)**
**BWSSB**

## ISSUE OF NOTICE TO PROCEED WITH THE WORK

**BANGALORE WATER SUPPLY AND SEWERAGE BOARD**

**No.** **Date:**

To
: _____[name and address of the Contractor]

Dear Sirs,

Pursuant to your furnishing the requisite security deposit as stipulated in ITT Clause 29.1 and signing of the contract agreement for the WORK OF UPGRADATION OF EXISTING 60 MLD SEWAGE TREATMENT PLANT TO ULTIMATE BUILD CAPACITY 80 MLD AT KENGERI BY PROVIDING ELECTRO-MECHANICAL AND INSTRUMENTATION EQUIPMENTS (2nd Call)

a Tender Price of INR , you are hereby instructed to proceed with the execution of the said works in accordance with the contract documents.

Yours faithfully,

**Chief Engineer (WWM-West)**
**BWSSB**

## AGREEMENT

**Agreement**

This agreement, made the _____ day of _____ 20____, between Chief Engineer (WWM-West), BWSSB (hereinafter called —the Employer) of the one part and _____

_____

_____[name and address of contractor] (hereinafter called —the Contractor) of the other part.

Whereas the Employer is desirous that the Contractor execute work of **Upgradation of existing 60 MLD Sewage Treatment Plant to ultimate build capacity 80 MLD at Kengeri by Providing Electro-Mechanical and Instrumentation equipments,(2nd Call)**

(hereinafter called —the Works) and the Employer has accepted the Tender by the Contractor for the execution and completion of such Works and the remedying of any defects therein at a contract price of Rupees.....

NOW THIS AGREEMENT WITNESSETH as follows:

1. In this Agreement, words and expression shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to, and they shall be deemed to form and be read and construed as part of this Agreement.
2. In consideration of the payments to be made by the Employer to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Employer to execute and complete the Works and remedy any defects therein in conformity in all aspects with the provisions of the Contract.
3. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying the defects wherein the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.
4. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz:
   i) Letter of Acceptance;

ii) Notice to proceed with the works;
iii) Contractor's Tender
iv) Contract Data;
v) Conditions of contract (including Special Conditions of Contract);
vi) Specifications;
vii) Bill of Quantities (Price Schedule);
viii) Drawings;
ix) Any other document listed in the Contract Data as forming part of the contract.

Whereas, the parties now mutually agree to the following conditions of Contract.

5. Jurisdiction of Courts/Arbitration: The Sitting of arbitration shall be held at Bangalore only and nowhere else.

6. Dispute of any kind arising out of the contract shall be resolved within the jurisdiction of Bangalore city only and the parties agree and clearly understand that the courts/ tribunals situated at Bangalore Metropolitan City have exclusive jurisdiction for the redressal of the disputes arising out of the contract and at no other place.

7. The parties further agree and understand that the place or places of issue of bank guarantee other than Bangalore will have no jurisdiction to resolve dispute of any kind relating to enforcement of the bank guarantees submitted by the contractor at Bangalore for the execution of the contract at Bangalore.

8. The contractor shall comply with all the legal requirements in the matter of employment of workmen and provide all safety gadgets to the workmen while working in the hazards place of conditions during the execution of the contract.

9. Contractor shall be fully responsible in the event of death of employee/ workman during the execution of the work and liable to pay adequate compensation to the dependants of employee/ workman as per law.

10. On his/ their failure, if the Board is made to pay compensation the same shall be recovered by the Board from the contractor out of the amounts due to the contractor or by appropriate legal action.

11. If death of any employee occurs during execution of work due to negligence of contractor, the contract will be liable for termination.
12. In the event of such termination, the employer may consider blacklisting of firm after due notice.

13. In case of any death or accident the contract will be canceled after following due process.

14. The Board will be entitled to claim exemplary damages from the contractor in case of death of any work man / employees of the contractor in any of the BWSSB works as it damages the reputation of the Board.

In witness whereof the parties thereto have caused this Agreement to be executed the day and year first before written.

The Common Seal of

_____

Was hereunto affixed in the presence of:

Signed, Sealed and Delivered by the said

_____

_____

in the presence of:

Binding Signature of Employer

_____

Binding Signature of Contractor

_____

Witness:

1.
2.

## SECTION 5: CONDITIONS OF CONTRACT


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# CONDITIONS OF CONTRACT
# A. GENERAL

## 1. Definitions

1.1 Terms which are defined in the Contract Data are not also defined in the Conditions of Contract but keep their defined meanings. Bold letters are used to identify defined terms.

**Bill of Quantities** means the priced and completed Bill of Quantities forming part of the Tender.

**Compensation events** are those defined in Clause 38 hereunder.

The **Completion Date** is the date of completion of the Works as certified by the Employer in accordance with Sub Clause 46.1.

The **Contract** is the contract between the Employer and the Contractor to execute, complete and maintain the Works. It consists of the documents listed in Clause 2.2 below.

The **Contract Data** defines the documents and other information which comprise the Contract.

The **Contractor** is a person or corporate body whose Tender to carry out the Works has been accepted by the Employer.

The **Contractor's Tender** is the completed Tender document submitted by the Contractor to the Employer.

The **Contract price** is the price stated in the Letter of Acceptance and thereafter as adjusted in accordance with the provisions of the Contract.

**Days** are calendar days; **months** are calendar months.

A **Defect** is any part of the Works not completed in accordance with the Contract. The **Defects liability period** is the period named in the Contract Data and calculated from the Completion Date.

The **Employer** is the party who will employ the Contractor to carry out the Works. **Equipment** is the Contractor's machinery and vehicles brought temporarily to the Site to construct the Works.

The **Initial Contract price** is the Contract Price listed in the Employer's Letter of Acceptance. The **Intended Completion Date** is the date on which it is intended that the Contractor shall complete the Works. The Intended Completion Date is specified in the Contract Data. The Intended Completion Date may be revised only by the Employer by issuing an extension of time.

**Materials** are all supplies, including consumables, used by the contractor for incorporation in the Works.

**Plant** is any integral part of the Works which is to have a mechanical, electrical, electronic or chemical or biological function.

The **Site** is the area defined as such in the Contract Data.

**Specification** means the Specification of the Works included in the Contract and any modification or addition made or approved by the Employer.
The **Start Date** is given in the Contract Data. It is the date when the Contractor shall commence execution of the works. It does not necessarily coincide with any of the Site Possession Dates.

A **Subcontractor** is a person or corporate body who has a Contract with the Contractor to carry out a part of the work in the Contract which includes work on the Site.

A **Variation** is an instruction given by the Employer which varies the Works.

The **Works** are what the Contract requires the Contractor to construct, install, and turn over to the Employer, as defined in the Contract Data.

Working Hours is weekly normal working hours for Contractor as mentioned in Contract Data.

**2. Interpretation**

2.1 In interpreting these Conditions of Contract, singular also means plural, male also means female or neuter, and the other way around. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Employer will provide instructions clarifying queries about the Conditions of Contract.

2.2 The documents forming the Contract shall be interpreted in the following order of priority:
(1) Agreement

(2) Letter of Acceptance, notice to proceed with the works

(3) Contract Data

(4) Conditions of Contract (including Special Conditions of Contract)

(5) Specifications

(6) Bill of quantities (Price Schedule)

(7) Drawings

(8) Contractor’s Tender; and

(9) any other document listed in the Contract Data as forming part of the Contract.

## 3. Law governing contract

3.1 The law governing the Contract is the Laws of India supplanted by the Karnataka Local Acts.

## 4. Employer's decisions

4.1 Except where otherwise specifically stated, the Employer will decide contractual matters between the Employer and the Contractor.

## 5. Delegation

5.1 The Employer may delegate any of his duties and responsibilities to other people after notifying the Contractor and may cancel any delegation after notifying the Contractor.

## 6. Communications

6.1 Communications between parties which are referred to in the conditions are effective only when in writing. A notice shall be effective only when it is delivered (in terms of Indian Contract Act). Language of Communication is as mentioned in Contract data.

## 7. Subcontracting

7.1 The Contractor may subcontract with the approval of the Employer but may not assign the Contract without the approval of the Employer in writing. Subcontracting does not alter the Contractor's obligations.

## 8. Other Contractors

8.1 The Contractor shall cooperate and share the Site with other contractors, public authorities, utilities, and the Employer.

## 9. Personnel

9.1 The Contractor shall employ the technical personnel (of number and qualifications) as may be stipulated by GOK from time to time during the execution of the work. The technical staff so employed shall be available at site as may be stipulated by the Employer.

9.2 If the Employer asks the Contractor to remove a person who is a member of the Contractor’s staff or his work force stating the reasons, the Contractor shall ensure that the person leaves the Site within seven days and has no further connection with the work in the Contract.

## 10. Employer’s and Contractor's risks

10.1 The Employer carries the risks which this Contract states are Employer’s risks, and the Contractor carries the risks which this Contract states are Contractor’s risks.

## 11. Employer's risks

11.1 The Employer is responsible for the excepted risks which are:

(a) rebellion, riot commotion or disorder unless solely restricted to employees of the Contractor or his Sub-Contractors arising from the conduct of the Works; or

(b) a cause due solely to the design of the Works, other than the Contractor’s design; or

(c) any operation of the forces of nature (in so far as it occurs on the Site) which an experienced contractor:

(i) could not have reasonably foreseen; or

(ii) could reasonably have foreseen, but against which he could not reasonably have taken at least one of the following measures;

(A) prevent loss or damage to physical property from occurring by taking appropriate measures or

(B) insure against such loss or damage

## 12. Contractor’s risks

**12.1** All risks of loss of or damage to physical property and of personal injury and death which arise during and in consequence of the performance of the Contract other than the excepted risks are the responsibility of the Contractor.

## 13. Insurance

**13.1** The Contractor shall prior to commencing the works, effect and thereafter maintain insurances, in the joint names of the Employer and the Contractor, (cover from the first working day after the Start Date to the end of Defects Liability Period), in the amounts stated in the Contract Data:

(a) for loss of or damage to the Works, Plants and Materials and the Contractor’s equipment;

(b) for liability of both Parties for loss, damage, death and injury to third parties or their property arising out of the Contractor’s performance of the Contract including the Contractor’s liability for damage to the Employer’s property other than the Works and

(c) for liability of both Parties and of any Employer’s representative for death and injury to the Contractor’s personnel except to the extent that liability arises from the negligence of the Employer, any Employer’s representative or their Employees.

13.2 Policies and certificates for insurance shall be delivered by the Contractor to the Employer for his approval before the Start Date. All such insurance shall provide for compensation to be payable to rectify the loss or damage incurred. All payments received from insurers relating to loss or damage shall be held jointly by the Parties and used for the repair of the loss or damage or as compensation for loss or damage that is not to be repaired.

**13.3** If the Contractor fails to effect or keep in force any of the insurances referred to in the previous sub-clauses or fails to provide satisfactory evidence, policies or receipts, the Employer may without prejudice to any other right or remedy, effect insurance for the cover relevant to such default and pay the premiums due and recover the same as a deduction from any other monies due to the Contractor. If no payments are due, the payment of the premiums shall be a debt due.

**13.4** Alterations to the terms of insurance shall not be made without the approval of the Employer.

**13.5** Both Parties shall comply with any conditions of the insurance policies.

**14. Site Investigation Reports**

14.1 The Contractor, in preparing the tender, shall rely on any site investigation reports referred to in the Contract data, supplemented by any information available to the Tenderer.

**15. Queries about the Contract Data**

15.1 The Employer will clarify queries on the Contract Data.

**16. Contractor to construct the Works**

16.1 The Contractor shall construct the Works in accordance with the Specification and Drawings.

**17. The Works to be completed by the Intended Completion Date**

17.1 The Contractor may commence execution of the Works on the Start Date and shall carry out the Works in accordance with the program submitted by the Contractor, as updated with the approval of the Employer, and complete them by the Intended Completion Date.

**18. Approval by the Employer**

18.1 The Contractor shall submit Specification and drawings showing the proposed Temporary Works to the Employer, who is to approve them if they comply with the Specifications and Drawings.

18.2 The Contractor shall be responsible for the design of Temporary and Permanent Works

18.3 The Employer’s approval shall not alter the Contractor’s responsibility for design of the Temporary Works.

18.4 The Contractor shall obtain approval of third parties to the design of third parties to the design of the temporary Works where required.

18.5 All Drawings prepared by the Contractor for the execution of the temporary or permanent Works, are subject to review and approval by the Employer before their use.

**19. Safety**

19.1 The Contractor shall be responsible for the safety of all activities on the Site.

**20. Discoveries**

20.1 Anything of historical or other interest or of significant value unexpectedly discovered on the Site is the property of the Employer. The Contractor is to notify the Employer of such discoveries and carry out the Employer's instructions for dealing with them.

**21. Possession of the Site**

21.1 The Employer shall give possession of all parts of the Site to the Contractor. If possession of a part is not given by the date stated in the Contract Data, the Employer is deemed to have delayed the start of the relevant activities and this will be Compensation Event.

**22. Access to the Site**

22.1 The Contractor shall allow the Employer and any person authorized by the Employer access to the Site, to any place where work in connection with the Contract is being carried out or is intended to be carried out and to any place where materials or plant are being manufactured / fabricated / assembled for the works.

**23. Instructions**

23.1 The Contractor shall carry out all instructions of the Employer which comply with the applicable laws where the Site is located.

**24. Procedure for resolution of Disputes:**

24.1 If the Contractor is not satisfied with the decision taken by the Employer, the dispute shall be referred by either party to Arbitration within 30 days of the notification of the Employer’s decision.

24.2 If neither party refers the dispute to Arbitration within the above 30 days, the Employer’s decision will be final and binding.

24.3 The Arbitration shall be conducted in accordance with the arbitration procedure stated in the Special Conditions of Contract.

## B. TIME CONTROL

### 25. Program

25.1 Within the time stated in the Contract Data the Contractor shall submit to the Employer for approval a Program showing the general methods, arrangements, order, and timing for all the activities in the Works.

25.2 The Employer's approval of the Program shall not alter the Contractor's obligations. The Contractor may revise the Program and submit it to the Employer again at any time. A revised Program is to show the effect of Variations and Compensation Events.

### 26. Extension of the Intended Completion Date

**26.1** The Employer shall extend the Intended Completion Date if a Compensation Event occurs or a Variation is issued which makes it impossible for Completion to be achieved by the Intended Completion Date.

**26.2** The Employer shall decide whether and by how much to extend the Intended Completion Date within 21 days of the Contractor asking the Employer for a decision upon the effect of a Compensation Event or Variation and submitting full supporting information.

### 27. Delays ordered by the Employer

**27.1** The Employer may instruct the Contractor to delay the start or progress of any activity within the Works.

### 28. Management meetings

**28.1** The Employer may require the Contractor to attend a management meeting. The business of a management meeting shall be to review the progress achieved and the plans for remaining work.

**28.2** The responsibility of the parties for actions to be taken is to be decided by the Employer either at the management meeting or after the management meeting and stated in writing to be distributed to all who attended the meeting.

## C. QUALITY CONTROL

### 29. Identifying defects

**29.1** The Employer shall check the Contractor's work and notify the Contractor of any Defects that are found. Such checking shall not affect the Contractor's responsibilities. The Employer may instruct the

Contractor to search for a Defect and to uncover and test any work that the Employer considers may have a Defect.

**30. Tests**

**30.1** If the Employer instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a Defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no Defect the test shall be a Compensation Event.

**31. Correction of Defects**

**31.1** The Employer shall give notice to the Contractor of any defects before the end of the defects Liability Period, which begins at Completion and is defined in the Contract Data. The Defects Liability Period shall be extended for as long as Defects remain to be corrected.

**31.2** Every time notice of a Defect is given, the Contractor shall correct the notified Defect within the length of time specified by the Employer's notice.

**32.** Uncorrected defects

**32.1** If the Contractor has not corrected a defect within the time specified in the Employer's notice, the Employer will assess the cost of having the defect corrected, and the Contractor will pay this amount.

**D. COST CONTROL**

**33. Bill of Quantities (BOQ)**

33.1 The BOQ shall contain items for the construction, installation, testing, and commissioning work to be done by the Contractor.

33.2 The BOQ is used to calculate the Contract Price. The Contractor is paid for the quantity of the work done at the rate in the BOQ for each item.

**34. Variations**

34.1 The Employer shall have power to order the Contractor to do any or all of the following as considered necessary or advisable during the progress of the work by him

(a) Increase or decrease of any item of work included in the Bill of Quantities (BOQ);
(b) Omit any item of work;
(c) Change the character or quality or kind of any item of work;
(d) Change the levels, lines, positions and dimensions of any part of the work;
(e) Execute additional items of work of any kind necessary for the completion of the works; and
(f) Change in any specified sequence, methods or timing of construction of any part of the work.

34.2 The Contractor shall be bound to carry out the work in accordance with any instructions in this connection, which may be given to him in writing by the Employer and such alteration shall not vitiate or invalidate the contract.

34.3 Variations shall not be made by the Contractor without an order in writing by the Employer, provided that no order in writing shall be required for increase or decrease in the quantity of an item appearing in the BOQ so long as the work executed conforms to the approved drawings.

34.4 The Contractor shall promptly request in writing the Employer to confirm verbal orders and if no such confirmation is received within 15 days of request, it shall be deemed to be an order in writing by the Employer.

**35. Payments for Variations**

35.1 Payment for increase in the quantities of an item in the BOQ up to 25% of that provided in the Bill of Quantities shall be made at the rates quoted by the Contractor.

35.2 For quantities in excess of 125% of the tendered quantity of an item as given in the BOQ, the Contractor shall be paid at the rate entered in or derived from in the Schedule of Rates (applicable for the area of the work and current at the time of award of contract) plus or minus the overall percentage of the original tendered rates over the current Schedule of Rates prevalent at the time of award of contract.

35.3 If there is no rate for the additional, substituted or altered item of the work in the BOQ, efforts would be made to derive the rates from those given in the BOQ or the Schedule of Rates (applicable for the area of the work and current at the time of award of contract) and if found feasible the payment would be made at the derived rate for the item plus or minus the overall percentage of the original tendered rates over the current Schedule of Rates prevalent at the time of award of contract.

35.4 If the rates for additional, substituted or altered item of work cannot be determined either as at 35.1 or 35.2 or 35.3 above, the Contractor shall be requested to submit his quotation for the items supported by analysis of the rate or rates claimed, within 7 days.

35.5 If the Contractor's quotation is determined unreasonable, the Employer may order them and make a change to the Contract Price which shall be based on Employer’s own forecast of the effects of the Variation on the Contractor's costs.

35.6 If the Employer decides that the urgency of varying the work would prevent a quotation being given and considered without delaying the work, no quotation shall be given and the Variation shall be treated as a Compensation Event.

35.7 Under no circumstances the Contractor shall suspend the work on the plea of non-settlement of rates for items falling under this Clause.

## 36. Submission of bills for payment

36.1 The Contractor shall submit to the Employer monthly bills of the value of the work completed less the cumulative amount paid previously.

36.2 The Employer shall check the Contractor's bill and determine the value of the work executed which shall comprise of (i) value of the quantities of the items in the BOQ completed and (ii) valuation of Variations and Compensation Events.

36.3 The Employer may exclude any item paid in a previous bill or reduce the proportion of any item previously paid in the light of later information.

## 37. Payments

37.1 Payments shall be adjusted for deductions for advance payments, other recoveries in terms of the contract and taxes, at source, as applicable under the law. The Employer shall pay the Contractor the within 60 days of submission of bill. The Contractor shall be liable to pay liquidated damages for shortfall in progress. For Progress beyond the agreed programme, payment is subject to availability of the grants.

37.2 Items of the Works for which no rate or price has been entered in will not be paid for by the Employer and shall be deemed covered by other rates and prices in the Contract.

## 38. Compensation events

38.1 The following are Compensation events unless they are caused by the Contractor

(a) The Employer does not give access to a part of the Site by the Site Possession Date stated in the Contract Data.
(b) The Employer orders a delay or does not issue drawings, specifications or instructions required for execution of works on time.
(c) The Employer instructs the Contractor to uncover or to carry out additional tests upon work which is then found to have no Defects.
(d) The Employer gives an instruction for dealing with an unforeseen condition, caused by the Employer, or additional work required for safety or other reasons.
(e) The effect on the Contractor of any of the Employer’s Risks.
(f) The Employer unreasonably delays issuing a Certificate of Completion.
(g) Other Compensation Events listed in the Contract Data or mentioned in the Contract.

38.2 If a Compensation Event would cause additional cost or would prevent the work being completed before the Intended Completion Date, the Contract Price shall be increased and/or the Intended Completion

Date is extended. The Employer shall decide whether and by how much the Contract Price shall be increased and whether and by how much the Intended Completion Date shall be extended.

38.3 As soon as information demonstrating the effect of each Compensation event upon the Contractor's forecast cost has been provided by the Contractor, it is to be assessed by the Employer and the Contract Price shall be adjusted accordingly. If the Contractor's forecast is deemed unreasonable, the Employer shall adjust the Contract Price based on Employer’s own forecast. The Employer will assume that the Contractor will react competently and promptly to the event.

38.4 The Contractor shall not be entitled to compensation to the extent that the Employer's interests are adversely affected by the Contractor not having given early warning or not having cooperated with the Employer.

**39. Tax**

39.1 The rates quoted by the Contractor shall be deemed to be inclusive of the sales and other taxes that the Contractor will have to pay for the performance of this Contract. The Employer will perform such duties in regard to the deduction of such taxes at source as per applicable law.

**40. Price Adjustment: Not Applicable.**

**41. Liquidated damages**

41.1 The Contractor shall pay liquidated damages to the Employer at the rate per day stated in the Contract Data for each day that the Completion Date is later than the Intended Completion Date (for the whole of the works or the milestone as stated in the Contract Data). The total amount of liquidated damages shall not exceed the amount defined in the Contract Data. The Employer may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages does not affect the Contractor's liabilities.

41.2 If the Intended Completion Date is extended after liquidated damages have been paid, the Employer shall correct any over payment of liquidated damages by the Contractor by adjusting the next payment of bill.

**42. Advance Payments**

42.1 The Employer shall make payment to the Contractor of the amounts stated in the Contract Data by the date stated in the Contract Data, against provision by the Contractor of an unconditional bank guarantee in a form acceptable to the Employer issued by a Nationalized/Scheduled Bank in amounts equal to the advance payment. The guarantee shall remain effective until the advance payment has been repaid, but the amount of the guarantee shall be progressively reduced by the amounts repaid by the Contractor. Interest will not be charged on the advance payment.

42.2 The Contractor is to use the advance payment only to pay for Mobilization expenses required specifically for execution of the Works. The Contractor shall demonstrate that advance payment has been used in this way by supplying copies of invoices or other documents to the Employer.

42.3 The advance payment shall be repaid by deducting proportionate amounts from payments otherwise due to the Contractor, following the schedule of completed percentages of the Works on a payment basis. No account shall be taken of the advance payment or its repayment in assessing valuation of the work done, variations, price adjustments, compensation events or liquidated damages.

**43. Securities:**

43.1 The Security deposit (including additional security for unbalanced tenders) shall be provided to the Employer no later than the date specified in the Letter of Acceptance and shall be issued in an amount and form and type of instrument acceptable to the Employer. The Security deposit shall be valid until a date 30 days from the date of expiry of Defects Liability Period and the additional security for unbalanced tenders shall be valid until a date 30 days from the date of issue of the certificate of completion.

**44. Cost of Repairs:**

44.1 Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Defects Correction periods shall be remedied by the Contractor at the Contractor's cost if the loss or damage arises from the Contractor's acts or omissions.

## E. FINISHING THE CONTRACT

**45. Completion**

45.1 The Contractor shall request the Employer to issue a Certificate of Completion of the Works and the Employer will do so upon deciding that the Work is completed.

**46. Taking over**

46.1 The Employer shall take over the Site and the Works within seven days of issuing a certificate of Completion.

**47. Final account**

47.1 The Contractor shall supply to the Employer a detailed account of the total amount that the Contractor considers payable under the Contract before the end of the Defects Liability Period. The Employer shall issue a Defect Liability Certificate and certify any final payment that is due to the Contractor within 90 days of receiving the Contractor's account if it is correct and complete. If it is not, the

Employer shall issue within 90 days a schedule that states the scope of the corrections or additions that are necessary. If the Final Account is still unsatisfactory after it has been resubmitted, the Employer shall decide on the amount payable to the Contractor and make payment within 60 days of receiving the Contractor's revised account.

**48. As built drawings and Operation and Maintenance Manuals of equipments**

48.1 If —as built Completion Drawings and operation and maintenance manuals are required, the Contractor shall supply them by the dates stated in the Contract Data.

48.2 If the Contractor does not supply the Drawings by the dates stated in the Contract Data, or they do not receive the Employer's approval, the Employer shall withhold the amount stated in the Contract Data from payments due to the Contractor.

**49. Termination**

49.1 The Employer or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract.

49.2 Fundamental breaches of Contract include, but shall not be limited to the following:

(a) The Contractor stops work for 45 days when no stoppage of work is shown on the current Program and the stoppage has not been authorized by the Employer;

(b) The Employer instructs the Contractor to delay the progress of the Works and the instruction is not withdrawn within 60 days;

(c) The Contractor becomes bankrupt or goes into liquidation other than for a reconstruction or amalgamation;

(d) A payment due to the Contractor is not paid by the Employer within 90 days of the date of the submission of the Bill by Contractor;

(e) the Employer gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Employer;

(f) The Contractor does not maintain a security which is required;

(g) the Contractor has delayed the completion of works by the number of days for which the maximum amount of liquidated damages can be paid as defined in the Contract data; and

(h) if the Contractor, in the judgment of the Employer has engaged in corrupt or fraudulent practices in competing for or in the executing the Contract.

For the purpose of this paragraph: corrupt practice means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution. Fraudulent practice means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Borrower, and includes collusive practice among Tenderers (prior to or after Tender submission) designed to establish Tender prices at artificial non-competitive levels and to deprive the Borrower of the benefits of free and open competition.

49.3 When either party to the Contract gives notice of a breach of contract to the Employer for a cause other than those listed under Sub Clause 49.2 above, the Employer shall decide whether the breach is fundamental or not.

49.4 Notwithstanding the above, the Employer may terminate the Contract for convenience.

49.5 If the Contract is terminated the Contractor shall stop work immediately, make the Site safe and secure and leave the Site as soon as reasonably possible.

**50. Payment upon Termination**

50.1 If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Employer shall prepare bill for the value of the work done less advance payments received up to the date of the bill, less other recoveries due in terms of the contract, less taxes due to be deducted at source as per applicable law and less the percentage to apply to the work not completed as indicated in the Contract Data. Additional Liquidated Damages shall not apply. If the total amount due to the Employer exceeds any payment due to the Contractor the difference shall be a debt payable to the Employer.

50.2 If the Contract is terminated at the Employer's convenience or because of a fundamental breach of Contract by the Employer, the Employer shall prepare bill for the value of the work done, the reasonable cost of removal of Equipment, repatriation of the Contractor's personnel employed solely on the Works, and the Contractor's costs of protecting and securing the Works and less advance payments received up to the date of the certificate, less other recoveries due in terms of the contract, and less taxes due to be deducted at source as per applicable law and make payment accordingly.

**51. Property**

51.1 All materials on the Site, Plant, Equipment, Temporary Works and Works are deemed to be the property of the Employer, if the Contract is terminated because of a Contractor's default.

**52. Release from performance**

52.1 If the Contract is frustrated by any event entirely outside the control of either the Employer or the Contractor the Employer shall certify that the Contract has been frustrated. The Contractor shall make the Site safe and stop work as quickly as possible after receiving this certificate and shall be paid for all work carried out before receiving it and for any work carried out afterwards to which commitment was made.

1. **Further the following conditions will also become part of the agreement which may please be noted**.

a) **Amount put to tender is exclusive of GST.**
b) All applicable taxes payable in respect of work shall be paid by the contractor / firm to the necessary departments.
c) The Bidder should not have applied for or are now part of Corporate Debt Restructure (CDR) in the last 5 Financial Years.
d) The Contractor shall use tertiary treated water from BWSSB wherever available for Construction, Hydro testing at the prevailing rates of BWSSB.
g) No variation work will be executed by the firm unless approval is conveyed from the competent authority.
i) One designated qualified safety officer / Engineer shall be deployed at site from the firm.
j) Jurisdiction of Courts / Arbitration: The sitting of arbitration shall be held at Bangalore only and nowhere else.
k) Dispute of any kind arising out of the contract shall be resolved within the jurisdiction of Bangalore City only and the parties agree and clearly understand that the courts / tribunals situated at Bangalore Metropolitan City have exclusive jurisdiction for the redress of the disputes arising out of the contract and at no other place.
l) The Parties further agree and understand that the place or places of issue of bank guarantee other than Bangalore will have no jurisdiction to resolve dispute of any kind relating to enforcement of the bank guarantees submitted by the contractor at Bangalore for the execution of the contract at Bangalore.
m) The contractor shall comply with all the legal requirements in the matter of employment of workmen and provide all safety gadgets to the workmen while working in the hazards place or conditions during the execution of the contract.
n) Contractor shall be fully responsible in the event of death of employee / workman during the execution of the work and liable to pay adequate compensation to the dependents of employee / workman as per law.
o) On his / their failure, if the Board is made to pay compensation the same shall be recovered by the Board from the contractor out of the amounts due to the contractor or by appropriate legal action.

p) If death of any employees occurs during execution of work due to negligence of contractor, the contract will be liable for termination.

q) In the event of such termination, the employer may consider blacklisting of firm after due notice.

r) In case of any death or accident the contract will be cancelled after following due process.

- The Board will be entitled to claim exemplary damages from the contractor in case of death of any work man / employees of the contractor in any of the BWSSB works as it damages the reputation of the Board
- Any utilities encountered during execution if damaged by the contractor, the same need to be rectified immediately without any delay at his own cost with due approval from the concerned

s) The firm shall liaison & obtain Consent for Establishment before starting the Construction and obtain Consent for Operation before Test on Completion of the Contract from KSPCB. The Statutory fees shall be borne by BWSSB.

## F. SPECIAL CONDITIONS OF CONTRACT

The following Special Conditions of Contract (SCC) shall supplement the Conditions of Contract (CC). Whenever there is a conflict, the provisions herein shall prevail over those in the Conditions of Contract (CC). The clause number of the SCC is the corresponding clause number of the CC. ***[In cases of any differences, the provisions***

***contained in these Special Conditions of Contract (SCC) shall take precedence over the provisions of Conditions of Contract (CC).]***

*Add the following*

Clause 1. Definitions

*Add the following to the definition of* ***"Contract"***

"**Contract**" means these Conditions of Contract (Contract Conditions and Special Conditions of Contract), the Specifications, the Tender, the Contractor's Proposal, the Schedules, the Letter of Acceptance, the Contract Agreement (if completed) and such further documents as may be expressly incorporated in the Letter of Acceptance or Contract Agreement (if completed).
**Contract** means that portion of the Contract that relates to the **design, execution, completion, trial run and commissioning of the Works and the remedying of any defects,** in accordance with the provisions of the Contract.

*Add the following to the definition of* ***"Contractor's tender"***

The word —Tender is synonymous with —Bid and their derivatives (bidder / Tenderer, bid / tendered, bidding / tendering, etc.) as well as the words —Tender Documents with —Bid or Bidding Documents are synonymous.

*Replace the definition of* ***"Contract Price"*** *with the text below:*

"**Contract Price**" means the price as defined in the Contract and includes the adjustments in accordance with the Contract.

"**Contract Price**" means that portion of the Contract Price payable to the Contractor for performance of the Works Contract in accordance with the provisions of the Contract. The **Contract Price** will be the total of the amounts for carrying out the Works, as set out in Price Schedule under works.

"**Taking-Over Certificate**" means a certificate issued by the Engineer in accordance with the provisions of Clause 61 [*Taking Over*], **when the Works have been completed** in accordance with the Contract.

"**Performance Certificate**" is synonymous with **"Works Contract Completion Certificate"** and means the certificate issued by the Engineer after satisfactory completion of the Works and completion of the Contractor's Works Contract obligations (i.e., after satisfactory correction of all defects) in accordance with the provisions of the Contract

**"Price Schedule"** means the priced & completed schedules forming part of the tender.

*Add the following sub-Clause under Clause 5. Delegation*

## 5.2 Representatives

5.2.1 The Engineer / Authorized Employer Representative

(a) The Engineer is the person appointed by the Employer hereof and named as such in the Contract data to perform the duties delegated by the Employer. The Employer may from time to time appoint some other person as the Engineer in place of the person previously so appointed, and shall give a notice of the name of such other person to the Contractor without delay.
(b) The Engineer shall represent and act for the Employer at all times during the performance of the Contract. All notices, instructions, orders, certificates, approvals and all other communications under the Contract shall be given by the Engineer, except as herein otherwise provided.
(c) All notices, instructions, information and other communications given by the Contractor to the Employer under the Contract shall be given to the Engineer, except as herein otherwise provided.

5.2.2 Contractor's Representative

5.2.2.1 The Contractor shall appoint the Contractor's Representative and shall request the Employer in writing to approve the person so appointed.

5.2.2.2 The Contractor's Representative shall represent and act for the Contractor at all times during the performance of the Contract and shall give to the Engineer all the Contractor's notices, instructions, information and all other communications under the Contract.

5.2.2.3 All notices, instructions, information and all other communications given by the Employer or the Engineer to the Contractor under the Contract shall be given to the Contractor's Representative or, in its absence, its deputy, except as herein otherwise provided.

## 5.3 Contractor's Responsibilities.

5.3.1 The Contractor shall design, manufacture including associated purchases and/or subcontracting, install and complete the Facilities in accordance with the Contract. When completed, the Facilities should be fit for the purposes for which they are intended as defined in the Contract.

5.3.2 The Contractor confirms that it has entered into this Contract on the basis of a proper examination of the data relating to the Facilities including any data as to boring tests provided by the Employer, and on the basis of information that the Contractor could have obtained from a visual inspection of the Site if access thereto was available and of other data readily available to it relating to the Facilities as of the date

twenty-eight (28) days prior to bid submission. The Contractor acknowledges that any failure to acquaint itself with all such data and information shall not relieve its responsibility for properly estimating the difficulty or cost of successfully performing the Facilities.

5.3.3 The Contractor shall acquire and pay for all permits, approvals and/or licenses from all local, state or national government authorities or public service undertakings in the country where the Site is located which such authorities or undertakings require the Contractor to obtain in its name and which are necessary for the performance of the Contract, including, without limitation, visas for the Contractor‘s and Subcontractor‘s personnel and entry permits for all imported Contractor‘s Equipment. The Contractor shall acquire all other permits, approvals and/or licenses that are not the responsibility of the Employer under SCC Sub-Clause 5.4.2 hereof and that are necessary for the performance of the Contract. However, Contractor shall assist Employer & liaison with the line departments for obtaining all the other permits, approvals and/or licenses that are not the responsibility of the Contractor.
5.3.4 The Contractor shall comply with all laws in force in the country where the Facilities are to be implemented. The laws will include all local, state, national or other laws that affect the performance of the Contract and bind upon the Contractor. The Contractor shall indemnify and hold harmless the Employer from and against any and all liabilities, damages, claims, fines, penalties and expenses of whatever nature arising or resulting from the violation of such laws by the Contractor or its personnel, including the Subcontractors and their personnel.

5.3.5 The Contractor shall, with due care and diligence, design, engineer, procure, execute test and commission, including operation and maintenance for 5 years, remedy any defects therein accordance with the provisions of the Contract. The Contractor shall provide all superintendence, labour, materials, Plant, Contractor’s Equipment and all other things, whether of a temporary or permanent nature, required in and for such design, execution, completion and remedying of any defects, so far as the necessity for providing the same is specified in or is reasonably to be inferred from the Contract.

5.3.6 The Contractor shall promptly notify the Employer, of any error, omission, fault or other defect in the design of or Specification for the Works (prepared by the contractor and approved by the Engineer earlier), but which he discovers when reviewing the designs or executing the Works.

5.3.7 The Contractor shall take full responsibility for the adequacy, stability and safety of all Site operations and methods of construction. Since the Contract expressly provides that all items of plant shall be designed by the Contractor, he shall be fully responsible for all components of the plant, notwithstanding any approval by the Employer.

5.3.8 The Contractor shall provide all necessary superintendence during the execution of the Plant and as long as thereafter as the Project Engineer may consider necessary for the proper fulfilling of the Contractor's obligations under the Contract. The Contractor, or a competent and authorized representative approved by the Engineer, which approval may at any time be withdrawn, shall give his whole time to the superintendence of the construction of plant. Such authorized representative shall receive, on behalf of the Contractor, instructions from the Engineer. If the approval of the representative is withdrawn by the Engineer, the Contractor shall, as soon as is practicable, having regard to the requirement of replacing him as hereinafter mentioned, after receiving notice of such withdrawal, remove the representative from the construction of plant and shall not thereafter employ him again on the assignment in any capacity and shall replace him by another representative approved by the Engineer.

5.3.9 The Contractor shall be responsible for:
(a) the accurate setting-out of the various components of the plant in relation to original points, lines and levels of reference as designed by the contractor and approved by the Engineer.
(b) the correctness, subject as above mentioned, of the position, levels, dimensions and alignment of all parts of the plant, and
(c) the provision of all necessary instruments, appliances and labour in connection with the foregoing responsibilities.

If, any time during the execution of the plant, any error appears in the position, levels, dimensions or alignment of any part of the plant, the Contractor, on being required so to do by the Engineer, shall, at his own cost, rectify such error to the satisfaction of the Engineer, unless such error is based on incorrect instructions in writing by the Engineer, in which case the Engineer shall determine an addition to the Contract Price as per the relevant provisions of the contract and shall notify the Contractor accordingly.

The checking of any setting-out or of any line by the Engineer shall not in any way relieve the Contractor of his responsibility for the accuracy thereof and the Contractor shall carefully protect and preserve all bench-marks, sigh-rails, pegs and other things used in setting-out the Works.

5.3.10 The Contractor shall comply with all applicable environmental laws and regulations in India. The contractor shall (a) establish an operational system for managing environmental impacts, (b) carry out all of the monitoring and mitigation measures required and implement the Environmental Management Plan (EMP). The Contractor shall submit to the Employer monthly reports on the carrying out of such measures.

5.3.11 The Contractor should take necessary licenses under the current explosive rules to enable him to manufacture and process the quantity of gunpowder / explosive and perform the blasting as necessary according to prevailing rules.

5.3.12 All personnel, raw material, utilities, lubricants, chemicals catalysts and other material and facilities and works and required to properly carry out the Pre-Commissioning and Guarantee Tests, all in accordance with the Contract Agreement shall be arranged and provided by the Contractor.

5.3.13 The contractor shall be responsible for the continued operation and maintenance of the facilities for a period of 5 years after completion and shall be responsible for conducting the Guarantee Tests(s) for the facilities.

5.3.14 Contractor’s Equipment

5.3.14.1 All Contractor’s Equipment brought by the Contractor onto the Site shall be deemed to be intended to be used exclusively for the execution of the Contract. The Contractor shall not remove the same from the Site without the Engineer’s consent that such Contractor’s Equipment is no longer required for the execution of the Contract.

5.3.14.2 Unless otherwise specified in the Contract, upon completion of the Facilities, the Contractor shall remove from the Site all Equipment brought by the Contractor onto the Site and any surplus materials remaining thereon.

5.3.14.3 The Employer will, if requested, use its best endeavors to assist the Contractor in obtaining any local, state or national government permission required by the Contractor for the export of the Contractor’s Equipment imported by the Contractor for use in the execution of the Contract that is no longer required for the execution of the Contract.

5.3.15 Materials

5.2.15.1 The Contractor shall procure and transport all materials in an expeditious and orderly manner to the Site.

5.3.16 Transportation

5.3.16.1 The Contractor shall at its own risk and expense transport all the materials and the Contractor’s Equipment to the Site by the mode of transport that the Contractor judges most suitable under all the circumstances.

5.3.16.2 Unless otherwise provided in the Contract, the Contractor shall be entitled to select any safe mode of transport operated by any person to carry the materials and the Contractor’s Equipment.

5.3.16.3 Upon dispatch of each shipment of materials and the Contractor’s Equipment, the Contractor shall notify the Employer by telex, cable, facsimile or electronic means, of the description of the materials and of the Contractor’s Equipment, the point and means of dispatch, and the estimated time and point of arrival in the country where the Site is located, if applicable, and at the Site. The Contractor

shall furnish the Employer with relevant shipping documents to be agreed upon between the parties.

5.3.16.4 The Contractor shall be responsible for obtaining, if necessary, approvals from the authorities for transportation of the materials and the Contractor's Equipment to the Site. The Employer shall use its best endeavors in a timely and expeditious manner to assist the Contractor in obtaining such approvals, if requested by the Contractor. The Contractor shall indemnify and hold harmless the Employer from and against any claim for damage to roads, bridges or any other traffic facilities that may be caused by the transport of the materials and the Contractor's Equipment to the Site.

5.3.17 Customs Clearance

5.3.17.1 The Contractor shall, at its own expense, handle all imported materials and Contractor's Equipment at the point(s) of import and shall handle any formalities for customs clearance

5.3.18 Contractor's Supervision.

5.3.19.1 The Contractor shall give or provide all necessary superintendence during the installation of the Facilities, and the Construction Manager or his deputy shall be constantly on the Site to provide full-time superintendence of the installation. The Contractor shall provide and employ only technical personnel who are skilled and experienced in their respective callings and supervisory staff who are competent to adequately supervise the work at hand.

5.3.19 Watching and Lighting

5.3.19.1 The Contractor shall provide and maintain at its own expense all lighting, fencing, and watching when and where necessary for the proper execution and the protection of the Facilities, or for the safety of the owners and occupiers of adjacent property and for the safety of the public.

**5.4 Employer's Responsibilities**

5.4.1 The Employer shall be responsible for acquiring and providing legal and physical possession of the Site and access thereto, and for providing possession of and access to all other areas reasonably required for the proper execution of the Contract, including all requisite rights of way.

5.4.2 The Employer shall acquire and pay for all permits, approvals and/or licenses from all local, state or national government authorities or public service undertakings in the country where the Site is located which (a) such authorities or undertakings require the Employer to obtain in the Employer's name, (b) are necessary for the execution of the Contract, including those required for the performance by both the Contractor and the Employer of their respective obligations under the Contract.

5.4.3 If requested by the Contractor, the Employer shall use its best endeavors to assist the Contractor in obtaining in a timely and expeditious manner all permits, approvals and/or licenses necessary for the execution of the Contract from all local, state or national government authorities or public service undertakings that such authorities or undertakings require the Contractor or Subcontractors or the personnel of the Contractor or Subcontractors, as the case may be, to obtain.

*Add the following Sub-Clause after Sub-Clause 8.1*

8.2 The Contractor shall, upon written request from the Employer or the Engineer, give all reasonable opportunities for carrying out the work to any other contractors employed by the Employer on or near the Site.

8.3 If the Contractor, upon written request from the Employer or the Engineer, makes available to other contractors any roads or ways the maintenance for which the Contractor is responsible, permits the use by such other contractors of the Contractor‘s Equipment, or provides any other service of whatsoever nature for such other contractors, the Employer shall fully compensate the Contractor for any loss or damage caused or occasioned by such other contractors in respect of any such use or service, and shall pay to the Contractor reasonable remuneration for the use of such equipment or the provision of such services.

8.4 The Contractor shall also so arrange to perform its work as to minimize, to the extent possible, interference with the work of other contractors. The Engineer shall determine the resolution of any difference or conflict that may arise between the Contractor and other contractors and the workers of the Employer in regard to their work.

8.5 The Contractor shall notify the Engineer promptly of any defects in the other contractors’ work that come to its notice, and that could affect the Contractor’s work. The Engineer shall determine the corrective measures, if any, required to rectify the situation after inspection of the Facilities. Decisions made by the Engineer shall be binding on the Contractor.

## 13. Insurance

*Add after 13.5 the following sub clauses*

13.6 . Contractor shall at its expense take out the following

(a) Cargo Insurance During Transport:
Covering loss or damage occurring while in transit from the Contractor’s or Subcontractor’s works or stores until arrival at the Site, to the Plant (including spare parts therefor) and to the Contractor‘s Equipment.

(b) Automobile Liability Insurance
Covering use of all vehicles used by the Contractor or its Subcontractors, whether or not owned by them, in connection with the execution of the Contract.

(c) Workmen Compensation

In accordance with the statutory requirements applicable in any country where the Contract or any part thereof is executed. It should include all contractor employees, workers including their subcontractors.

## 14. Site Investigation Report

*Replace the text of the sub-clause 14.1 with the text below*

14.1 Setting Out / Bench Mark

**(a)** The Contractor shall be responsible for the true and proper setting-out of the Facilities in relation to bench marks, reference marks and lines provided to it in writing by *or on behalf of* the Employer.

**(a)** If, at any time during the progress of installation of the Facilities, any error shall appear in the position, level or alignment of the Facilities, the Contractor shall forthwith notify the Engineer of such error and, at its own expense, immediately rectify such error to the reasonable satisfaction of the Engineer. If such error is based on incorrect data provided in writing by or on behalf of the Employer, the expense of rectifying the same shall be borne by the Employer.

*Add the following sub-clause after Clause No 16.1*

## 16.2 License/Use of Technical Information.

16.2.1 For the operation and maintenance of the Plant, the Contractor hereby grants a non-exclusive and non-transferable license (without the right to sub-license) to the Employer under the patents, utility models or other industrial property rights owned by the Contractor or by a third party from whom the Contractor has received the right to grant licenses thereunder, and shall also grant to the Employer a non-exclusive and non-transferable right (without the right to sub-license) to use the know-how and other technical information disclosed to the Employer under the Contract. Nothing contained herein shall be construed as transferring ownership of any patent, utility model, trademark, design, copyright, know-how or other intellectual property right from the Contractor or any third party to the Employer.

16.2.2 The copyright in all drawings, documents and other materials containing data and information furnished to the Employer by the Contractor herein shall remain vested in the Contractor or, if they are furnished to the Employer directly or through the Contractor by any

third party, including suppliers of materials, the copyright in such materials shall remain vested in such third party.

*Add after 17.1 the following sub clauses*

**17.2 Time for Commencement and completion**

17.2.1 The Contractor shall commence work on start date as specified in Contract Data for determining Time for Completion as specified in the Contract Agreement.
17.2.2 The Time for Completion of the whole of the Facilities shall be as indicated below including commissioning from the Start Date as described in the Contract Agreement.

**Total time period 12 months.**

Which comprises of 9 months for supply and 3 months for testing and commissioning.
The whole of the Works, including testing, Trial Run, and commissioning and performance guarantee test shall be completed within the period specified above. The Taking-Over Certificate will be issued upon successful completion of the Performance guarantee test and rectification of any defects observed during the period

**18.6 Other Approvals**

18.6.1: Specifications and Drawings

18.6.1.1 The Contractor shall execute the basic and detailed design and the engineering work in compliance with the provisions of the Contract, or where not so specified, in accordance with good engineering practice.

The Contractor shall be responsible for any discrepancies, errors or omissions in the specifications, drawings and other technical documents that it has prepared, whether such specifications, drawings and other documents have been approved by the Engineer or not, provided that such discrepancies, errors or omissions are not because of inaccurate information furnished in writing to the Contractor by or on behalf of the Employer.

18.6.1.2 The Contractor shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designated by or on behalf of the Employer, by giving a notice of such disclaimer to the Engineer.

18.6.2 Codes and Standards
Wherever references are made in the Contract to codes and standards in accordance with which the Contract shall be executed, the edition or the revised version of such codes and standards current at the date twenty-eight (28) days prior to date of bid submission shall apply unless otherwise specified. During Contract execution, any changes in

such codes and standards shall be applied subject to approval by the Employer

18.6.3 Approval/Review of Technical Documents / Drawings by Engineer

18.6.3.1 The Contractor shall prepare and furnish to the Engineer the documents listed in the Contract Data (List of Documents for Approval or Review) to the Contract Agreement for its approval or review
Any part of the Facilities covered by or related to the documents to be approved by the Engineer shall be executed only after the Engineer's approval thereof.

18.6.3.2 The Engineer shall either return one copy thereof to the Contractor with its approval endorsed thereon or shall notify the Contractor in writing of its disapproval thereof and the reasons therefore and the modifications that the Engineer proposes.

18.6.3.3 The Engineer shall not disapprove any document, except on the grounds that the document does not comply with the Contract or that it is contrary to good engineering practice. If the Engineer disapproves a document, he shall specify the reasons for his decision.

18.6.3.4 If the Engineer disapproves the document, the Contractor shall revise the document after incorporating the comments and re-submit to client within the timeframe stipulated below.

18.6.3.5 The time taken for submission, review and approval of documents need to be as indicated below:

| Description | Time Frame |
|---|---|
| Revision 0 or the First Submission by Contractor | Approval / comments by Engineer within 21 working days |
| Revised Submission by Contractor after receipt of comment | Within 7 working days of receipt of comments from Engineer |
| Approval / Comments of Engineer on the revised submission | Within 5 working days of the receipt of submission. |
| | |

**19.2 Care of Facilities**

19.2.1 The Contractor shall be responsible for the care and custody of the Facilities or any part thereof until the date of Completion of the Facilities pursuant to SCC Clause 25.8 or, where the Contract provides for Completion of the Facilities in parts, until the date of Completion of the relevant part, and shall make good at its own cost any loss or damage that may occur to the Facilities or the relevant part thereof from any cause whatsoever during such period. The Contractor shall also be responsible for any loss or damage to the Facilities caused by the Contractor or its Subcontractors in the course of any work carried out. Notwithstanding the foregoing, the Contractor shall not be liable for any loss or damage to the Facilities

or that part thereof caused by reason of any of the matters specified or referred to in paragraphs (a) and (b) of SCC Sub-Clauses 19.2.2.

19.2.2 If any loss or damage occurs to the Facilities or any part thereof or to the Contractor's temporary facilities by reason of

(a) insofar as they relate to the country where the Site is located, nuclear reaction, nuclear radiation, radioactive contamination, pressure wave caused by aircraft or other aerial objects, or any other occurrences that an experienced contractor could not reasonably foresee, or if reasonably foreseeable could not reasonably make provision for or insure against, insofar as such risks are not normally insurable on the insurance market and are mentioned in the general exclusions of the policy of insurance, including War Risks and Political Risks,; or
(b) any use or occupation by the Employer or any third party other than a Subcontractor, authorized by the Employer of any part of the Facilities; or

19.2.3 The Contractor shall be liable for any loss of or damage to any Contractor's Equipment, or any other property of the Contractor used or intended to be used for purposes of the Facilities, except (i) as mentioned in SCC Sub-Clause 19.2.2 with respect to the Contractor's temporary facilities, and (ii) where such loss or damage arises by reason of any of the matters specified in SCC Sub-Clauses 19.2.2 (b).

**19.3. Loss of or Damage to Property; Accident or Injury to Workers; Indemnification**

19.3.1 Subject to SCC Sub-Clause 19.3.3, the Contractor shall indemnify and hold harmless the Employer and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, in respect of the death or injury of any person or loss of or damage to any property other than the Facilities whether accepted or not, arising in connection with the supply and installation of the Facilities and by reason of the negligence of the Contractor or its Subcontractors, or their employees, officers or agents, except any injury, death or property damage caused by the negligence of the Employer, its contractors, employees, officers or agents.

19.3.2 If any proceedings are brought or any claim is made against the Employer that might subject the Contractor to liability under SCC Sub-Clause 19.3.1, the Employer shall promptly give the Contractor a notice thereof and the Contractor may at its own expense and in the Employer's, name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

If the Contractor fails to notify the Employer within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Employer shall be free to conduct the same on its own behalf. Unless the Contractor has so failed to notify

the Employer within the twenty-eight (28) day period, the Employer shall make no admission that may be prejudicial to the defence of any such proceedings or claim.
The Employer shall, at the Contractor's request, afford all available assistance to the Contractor in conducting such proceedings or claim, and shall be reimbursed by the Contractor for all reasonable expenses incurred in so doing.

19.3.3 The Employer shall indemnify and hold harmless the Contractor and its employees, officers and Subcontractors from any liability for loss of or damage to property of the Employer, other than the Facilities not yet taken over, that is caused by fire, explosion or any other perils, in excess of the amount recoverable from insurances procured under CC Clause 13, provided that such fire, explosion or other perils were not caused by any act or failure of the Contractor.

19.3.4 The party entitled to the benefit of an indemnity under this CC Clause 13 shall take all reasonable measures to mitigate any loss or damage which has occurred. If the party fails to take such measures, the other party's liabilities shall be correspondingly reduced.

*Add the following sub-clause after 21.1*

21.2 Site Clearance in Course of Performance

In the course of carrying out the Contract, the Contractor shall keep the Site reasonably free from all unnecessary obstruction, store or remove any surplus materials, clear away any wreckage, rubbish or temporary works from the Site, and remove any Contractor's Equipment no longer required for execution of the Contract.

21.3 Clearance of Site after Completion
After Completion of all parts of the Facilities, the Contractor shall clear away and remove all wreckage, rubbish and debris of any kind from the Site, and shall leave the Site and Facilities in a clean and safe condition.

*Replace the text of the Clause 25, Program with the text below.* **25.1**

**Work Programme**

25.1.1 Contractor's Organization

The Contractor shall supply to the Employer and the Engineer a chart showing the proposed organization to be established by the Contractor for carrying out work on the Facilities within twenty-one (21) days of the Start Date. The chart shall include the identities of the key personnel and the curriculum vitae of such key personnel to be employed shall be supplied together with the chart. The Contractor shall promptly inform the Employer and the Engineer in writing of any revision or alteration of such an organization chart.

25.1.2 Programme of Performance

Within twenty-eight (28) days after the Start Date, the Contractor shall submit to the Engineer a detailed programme of performance of the Contract, made in a form acceptable to the Engineer and showing the sequence in which it proposes to design, manufacture, transport, assemble, install and pre-commission the Facilities, as well as the date by which the Contractor reasonably requires that the Employer shall have fulfilled its obligations under the Contract so as to enable the Contractor to execute the Contract in accordance with the programme and to achieve Completion, Commissioning and Acceptance of the Facilities in accordance with the Contract. The programme so submitted by the Contractor shall be in accordance with the Time Schedule included in the Contract Agreement and any other dates and periods specified in the Contract. The Contractor shall update and revise the programme as and when appropriate or when required by the Engineer, but without modification in the Times for Completion and any extension granted in accordance with Conditions of contract (CC) Clause 26, and shall submit all such revisions to the Engineer.

25.1.3 Progress Report

The Contractor shall monitor progress of all the activities specified in the programme referred to above, and supply a progress report to the Engineer every month.

The progress report shall be in a form acceptable to the Engineer and shall indicate: (a) percentage completion achieved compared with the planned percentage completion for each activity; and (b) where any activity is behind the programme, giving comments and likely consequences and stating the corrective action being taken.

25.1.4 Progress of Performance

If at any time the Contractor‘s actual progress falls behind the programme referred to above, or it becomes apparent that it will so fall behind, the Contractor shall, at the request of the Employer or the Engineer, prepare and submit to the Engineer a revised programme, taking into account the prevailing circumstances, and shall notify the Engineer of the steps being taken to expedite progress so as to attain Completion of the Facilities within the Time for Completion under SCC Sub-Clause 17.2, or any extended period as may otherwise be agreed upon between the Employer and the Contractor.

25.1.5 Procedures

The Contract shall be executed in accordance with the Contract Documents including the procedures given in the Forms and Procedures of the Specifications.
The Contractor may execute the Contract in accordance with its own standard project execution plans and procedures to the extent that they do not conflict with the provisions contained in the Contract.

*Add after 26.2 the following sub clauses*

26.3. Contractor’s Claim of Extension of the Intended Completion Date

26.3.1 If the Contractor considers himself to be entitled to any extension of the Time for Completion and/or any additional payment, under any Clause of these Conditions or otherwise in connection with the Contract, the Contractor shall submit a notice to the Engineer, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable, and not later than 28 days after the Contractor became aware, or should have become aware, of the event or circumstance.

If the Contractor fails to give notice of a claim within such period of 28 days, the Time for Completion shall not be extended, the Contractor shall not be entitled to additional payment, and the Employer shall be discharged from all liability in connection with the claim. Otherwise, the following provisions of this Sub-Clause shall apply.

The Contractor shall also submit any other notices which are required by the Contract, and supporting particulars for the claim, all as relevant to such event or circumstance.

The Contractor shall keep such contemporary records as may be necessary to substantiate any claim, either on the Site or at another location acceptable to the Engineer. Without admitting the Employer’s liability, the Engineer may, after receiving any notice under this Sub-Clause, monitor the record-keeping and/or instruct the Contractor to keep further contemporary records. The Contractor shall permit the Engineer to inspect all these records, and shall (if instructed) submit copies to the Engineer.

Within 42 days after the Contractor became aware (or should have become aware) of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Engineer, the Contractor shall send to the Engineer a fully detailed claim which includes full supporting particulars of the basis of the claim and of the extension of time and/or additional payment claimed. If the event or circumstance giving rise to the claim has a continuing effect:

(a) this fully detailed claim shall be considered as interim;
(b) the Contractor shall send further interim claims at monthly intervals, giving the accumulated delay and/or amount claimed, and such further particulars as the Engineer may reasonably require; and
(c) the Contractor shall send a final claim within 28 days after the end of the effects resulting from the event or circumstance, or within such other period as may be proposed by the Contractor and approved by the Engineer.

Within 21 days after receiving a claim or any further particulars supporting a previous claim, or within such other period as may be proposed by the Engineer and approved by the Contractor, the

Engineer shall respond with approval, or with disapproval and detailed comments. He may also request any necessary further particulars, but shall nevertheless give his response on the principles of the claim within such time.

Each Payment Certificate shall include such amounts for any claim as have been reasonably substantiated as due under the relevant provision of the Contract. Unless and until the particulars supplied are sufficient to substantiate the whole of the claim, the Contractor shall only be entitled to payment for such part of the claim as he has been able to substantiate.

The Engineer shall agree with the Contractor or estimate: (i) the extension (if any) of the Time for Completion (before or after its expiry) in accordance with SCC Clause 26.3, and/or (ii) the additional payment (if any) to which the Contractor is entitled under the Contract.

The requirements of this Sub-Clause are in addition to those of any other Sub-Clause which may apply to a claim. If the Contractor fails to comply with this or another Sub-Clause in relation to any claim, any extension of time and/or additional payment shall take account of the extent (if any) to which the failure has prevented or prejudiced proper investigation of the claim, unless the claim is excluded under the second paragraph of this Sub-Clause.

In the event that the Contractor and the Employer cannot agree on any matter relating to a claim, either party may refer the matter to the Dispute Board pursuant to CC 24 hereof.

*Add after 30.1 the following sub clauses*

**30.2. Procedures for Tests**

30.2.1 The Contractor shall at its own expense carry out at the place of manufacture and/or on the Site all such tests and/or inspections of the Plant and any part of the Facilities as are specified in the Contract

30.2.2 The Employer and the Engineer or their designated representatives shall be entitled to attend the aforesaid test and/or inspection, provided that the Employer shall bear all costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.

30.2.3 Whenever the Contractor is ready to carry out any such test and/or inspection, the Contractor shall give a reasonable advance notice of such test and/or inspection and of the place and time thereof to the Engineer. The Contractor shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Employer and the Engineer or their designated representatives to attend the test and/or inspection.

30.2.4 The Contractor shall provide the Engineer with a certified report of the results of any such test and/or inspection.
If the Employer or Engineer or their designated representatives fails to attend the test and/or inspection, or if it is agreed between the parties that such persons shall not do so, then the Contractor may proceed with the test and/or inspection in the absence of such persons, and may provide the Engineer with a certified report of the results thereof.
30.2.5 The Engineer may require the Contractor to carry out any test and/or inspection not required by the Contract, provided that the Contractor's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impede the progress of work on the Facilities and/or the Contractor's performance of its other obligations under the Contract, due allowance will be made in respect of the Time for Completion and the other obligations so affected.

30.2.6 If any Plant or any part of the Facilities fails to pass any test and/or inspection, the Contractor shall either rectify or replace such Plant or part of the Facilities and shall repeat the test and/or inspection upon giving a notice under SCC Sub-Clause 25.6.3.

30.2.7 If any dispute or difference of opinion shall arise between the parties in connection with or arising out of the test and/or inspection of the Plant or part of the Facilities that cannot be Board.

30.2.8 The Contractor shall afford the Employer and the Engineer, at the Employer's expense, access at any reasonable time to any place where the Plant are being manufactured or the Facilities are being installed, in order to inspect the progress and the manner of manufacture or installation, provided that the Engineer shall give the Contractor a reasonable prior notice.

30.2.9 The Contractor agrees that neither the execution of a test and/or inspection of Plant or any part of the Facilities, nor the attendance by the Employer or the Engineer, nor the issue of any test certificate pursuant to SCC Sub-Clause 25.6.4, shall release the Contractor from any other responsibilities under the Contract.

30.2.10 No part of the Facilities or foundations shall be covered up on the Site without the Contractor carrying out any test and/or inspection required under the Contract. The Contractor shall give a reasonable notice to the Engineer whenever any such parts of the Facilities or foundations are ready or about to be ready for test and/or inspection; such test and/or inspection and notice thereof shall be subject to the requirements of the Contract.

30.2.11 The Contractor shall uncover any part of the Facilities or foundations, or shall make openings in or through the same as the Engineer may from time to time require at the Site, and shall reinstate and make good such part or parts. If any parts of the Facilities or foundations have been covered up at the Site after compliance with the requirement of SCC Sub-Clause.

30.2.12 and are found to be executed in accordance with the Contract, the expenses of uncovering, making openings in or through, reinstating, and making good the same shall be borne by the Employer, and the Time for Completion shall be reasonably adjusted to the extent that the Contractor has thereby been delayed or impeded in the performance of any of its obligations under the Contract.

## 30.3. Third Party Inspections and Testing

30.3.1 The Employer will undertake third party inspections and testing for all works and any civil structure or material or work as may be applicable and as desired by the Engineer. The Contractor shall be wholly responsible to make his own arrangements for carrying out the required tests. The Contractor shall be responsible to obtain permission for and provide all facilities to Employer for carrying out such inspections or testing as may be required. The Third-Party Inspection charges and all the other costs for such independent inspection and testing shall be borne by the contractor.

30.3.2 A mutually agreed quality assurance plan with minimum requirements as per Indian Standards will be developed which provides for inspection and certification by the third-party inspection at specified times.

30.3.3 No material shall be delivered to the site without formal inspection or testing unless otherwise waived in writing by the Engineer with a certificate issued by the contractor, which is endorsed by the Engineer that the item confirms to the requirement of contract in all respects.

30.3.4 The Employer or his authorized representative may make inspections at any of the manufacturing or shipping points at any time in addition to the schedule agreed with a prior notice of atleast 2 weeks at the cost of Employer. However, during such inspection, if it is found that any of the items are not being manufactured or shipped in accordance with the specifications, the contractor shall bear all expenses including fees incurred by the employer in respect of such inspection.

30.3.5 The contractor shall perform or make arrangements for all tests when requested by the Employer.

30.3.6 The Contractor shall agree with the Engineer on the time and place for the inspection of any materials or plant. The Engineer shall give the contractor not less than 24 hours notice of his intention to carry out inspection or to attend the tests.

30.3.7 If at the time and place agreed in accordance with the Contract the materials or Plant if, as a result of the inspection or testing referred to in this Clause, the Engineer determines that the materials

or plant are defective or otherwise not in accordance with the contract, he may reject the materials or plant and shall notify the contractor there of immediately. The notice shall state the Engineer's observations with reasons. The Contractor shall then promptly make good the defect or replace the same. It the Engineer so requests, the tests of such material or plant shall be made or repeated under the same terms and conditions. All costs incurred by the Engineer for the inspection of the tests shall be determined by the Engineer and shall be recoverable form the from the contractor and may be deducted from any money's due that the Contractor and the Engineer shall notify the Contractor accordingly.

30.3.8 Any inspection carried out by the Engineer shall not relieve the contractor of his obligations under the contract.

## 30.4. Pre-Commissioning

30.4.1 As soon as the Facilities or any part thereof has, in the opinion of the Contractor, been completed operationally and structurally and put in a tight and clean condition as specified in the Specifications, excluding minor items not materially affecting the operation or safety of the Facilities, the Contractor shall so notify the Employer in writing under SCC 62. The tests on completion shall be carried out as given below and as per SCC sub clause 62.

30.4.2 The arrangement of all the required personnel, material and facilities, etc. for the purpose of Pre-commissioning of the facilities or any part thereof shall be done by the contractor.

30.4.3 The Contractor shall commence Pre-commissioning of the Facilities or the relevant part thereof in preparation for Commissioning. The conduct of the activities of Pre-commissioning shall be done by the contractor.

30.4.4 When the Contractor is notified by the Engineer that the plant is ready for Pre-commissioning, the Contractor shall proceed without delay in performing all the specified activities and obligations under the contract.

30.4.5 As soon as all works in respect of Pre-commissioning are completed and, in the opinion of the Contractor, the Facilities or any part thereof is ready for Commissioning, the Contractor shall so notify the Engineer in writing.

30.4.6 The Engineer shall, within twenty-one (21) days after receipt of the Contractor's notice under SCC Sub-Clause 30.4.5, either issue a Taking Over Certificate, stating that the Facilities or that part thereof have reached Completion as of the date of the Contractor's notice under SCC Sub-Clause 30.4.5, or notify the Contractor in writing of any defects and/or deficiencies.

If the Engineer notifies the Contractor of any defects and/or deficiencies, the Contractor shall then correct such defects and/or

deficiencies, and shall repeat the procedure described in SCC Sub-Clause 30.4.5. If the Engineer is satisfied that the Facilities or that part thereof have reached Completion, the Engineer shall, within fourteen (14) days after receipt of the Contractor's repeated notice, issue a Taking Over Certificate stating that the Facilities or that part thereof have reached Completion as of the date of the Contractor's repeated notice. If the Engineer is not so satisfied, then he/she shall notify the Contractor in writing of any defects and/or deficiencies within fourteen (14) days after receipt of the Contractor's repeated notice, and the above procedure shall be repeated.

30.4.7 As soon as possible after Completion, the Contractor shall complete all outstanding minor items so that the Facilities are fully in accordance with the requirements of the Contract, failing which the Employer will undertake such completion and deduct the costs thereof from any monies owing to the Contractor.

30.4.8 The contractor shall be responsible for Operation and Maintenance of the plant for a period of Five years after completion of the works and commissioning of the facilities and during that period, the contractor shall be responsible for the care and custody of the facilities or the relevant part thereof, together with the risk of loss or damage thereto

## 30.5. Commissioning

30.5.1 Commissioning of the Facilities or any part thereof shall be commenced by the Contractor immediately after issue of the Taking Over Certificate by the Engineer, pursuant to SCC Sub-Clause 30.4.5.

30.5.2 Guarantee Test

30.5.2.1 Subject to SCC Sub-Clause 30.5.1, the Guarantee Test and repeats thereof shall be conducted by the Contractor during Commissioning of the Facilities or the relevant part thereof to ascertain whether the Facilities or the relevant part can attain the Functional Guarantees specified in the Contract Agreement.

30.5.2.2 If for reasons not attributable to the Contractor, the Guarantee Test of the Facilities or the relevant part thereof cannot be successfully completed within the period from the date of Pre-commissioning of the Facilities pursuant to SCC Sub-Clause 30.4.3, or with the Guarantee Test pursuant to Sub-Clause SCC 30.5.2, for reasons attributable to the Employer either on account of non availability of other facilities under the responsibilities of other contractor(s), or for reasons beyond the Employer‘s control, the provisions leading to Operational Acceptance, and Contractor‘s obligations regarding Defect Liability Period, pursuant to SCC Sub-Clause 44.2, Functional Guarantee, pursuant to SCC Clause 43.4, and Care of Facilities shall not apply. In this case, the following provisions shall apply.

When the Contractor is notified by the Engineer that he will be unable to proceed with the activities and obligations pursuant to above Sub-Clause 30.5.2.2, the Contractor shall be entitled to the following:

(a) the Time of Completion shall be extended for the period of suspension without imposition of liquidated damages pursuant to SCC Sub-Clause 26.2;
(b) the expenses towards the above security and extension of other securities under the contract, of which validity needs to be extended, shall be reimbursed to the Contractor by the Employer;

30.5.2.3 In the event that the period of suspension under above Sub-Clause 30.5.2.2 actually exceeds two hundred and seventy (270) days, the Employer and Contractor shall mutually agree to any additional compensation payable to the Contractor.

*Add after 41.2 the following sub clauses*

41.3 However, the payment of liquidated damages shall not in any way relieve the Contractor from any of its obligations to complete the Facilities or from any other obligations and liabilities of the Contractor under the Contract.

*Replace of the existing Clause 33, Bill of Quantities (BOQ) with the following sub clauses*

**33. Price Schedule**

33.1 The Price Schedule shall contain items for the supply, design, construction, installation, testing, and commissioning as outlined in the contract to be done by the Contractor.

33.2 Terms of Payment

33.2.1 The Contract Price shall be paid as specified in Appendix 1, Contract Data of the Contract Agreement and SCC 37, which also outlines the procedures to be followed in making application for and processing payments.

33.2.2 No payment made by the Employer herein shall be deemed to constitute acceptance by the Employer of the Facilities or any part(s) thereof.

33.2.3 The Contract Price shall be adjusted in accordance with the provisions of Contract Data (Price Escalation)

33.3 The Contractor shall be deemed to have satisfied itself as to the correctness and sufficiency of the Contract Price, which shall, except as otherwise provided for in the Contract, cover all its obligations under the Contract

*Replace of the existing Clause 34, Variations with the following sub clauses*

34.1. Change in the Facilities:

34.1.1 Introducing a Change

34.1.1.1 Subject to SCC Sub-Clauses 34.1.2.5 and 34.1.2.7, the Employer shall have the right to propose, and subsequently require, that the Engineer order the Contractor from time to time during the performance of the Contract to make any change, modification, addition or deletion to, in or from the Facilities hereinafter called —Change, provided that such Change falls within the general scope of the Facilities and does not constitute unrelated work and that it is technically practicable, taking into account both the state of advancement of the Facilities and the technical compatibility of the Change envisaged with the nature of the Facilities as specified in the Contract.

34.1.1.2 The Contractor may from time to time during its performance of the Contract propose to the Employer with a copy to the Engineer, any Change that the Contractor considers necessary or desirable to improve the quality, efficiency or safety of the Facilities. The Employer may at its discretion approve or reject any Change proposed by the Contractor, provided that the Employer shall approve any Change proposed by the Contractor to ensure the safety of the Facilities.

34.1.1.3 Notwithstanding SCC Sub-Clauses 34.1.1.1 and 34.1.1.2, no change made necessary because of any default of the Contractor in the performance of its obligations under the Contract shall be deemed to be a Change, and such change shall not result in any adjustment of the Contract Price or the Time for Completion.

34.1.1.4 The procedure on how to proceed with and execute Changes is specified in SCC Sub-Clauses 34.1.2 and 34.1.3.

34.1.2 Changes Originating from Employer

34.1.2.1 If the Employer proposes a Change pursuant to SCC Sub-Clause 34.1.1.1, it shall send to the Contractor a —Request for Change Proposal, requiring the Contractor to prepare and furnish to the Engineer as soon as reasonably practicable a —Change Proposal, which shall include the following:

(a) brief description of the Change
(b) effect on the Time for Completion
(c) estimated cost of the Change
(d) effect on Functional Guarantees (if any)
(e) effect on the Facilities
(f) effect on any other provisions of the Contract.

34.1.2.2 Prior to preparing and submitting the Change Proposal, the Contractor shall submit to the Engineer an Estimate for Change Proposal, which shall be an estimate of the cost of preparing and submitting the Change Proposal.

Upon receipt of the Contractor's Estimate for Change Proposal, the Employer shall do one of the following:

(a) accept the Contractor's estimate with instructions to the Contractor to proceed with the preparation of the Change Proposal
(b) advise the Contractor of any part of its Estimate for Change Proposal that is unacceptable and request the Contractor to review its estimate
c) advise the Contractor that the Employer does not intend to proceed with the Change.

34.1.2.3 Upon receipt of the Employer's instruction to proceed under SCC Sub-Clause 34.1.2.2 (a), the Contractor shall, with proper expedition, proceed with the preparation of the Change Proposal, in accordance with SCC Sub-Clause 34.1.2.1.

34.1.2.4 The pricing of any Change shall, as far as practicable, be calculated in accordance with the rates and prices included in the Contract. If such rates and prices are inequitable, the parties thereto shall agree on specific rates for the valuation of the Change.

34.1.2.5 If before or during the preparation of the Change Proposal it becomes apparent that the aggregate effect of compliance therewith and with all other Change Orders that have already become binding upon the Contractor under this SCC Clause 34.1 would be to increase or decrease the Contract Price as originally set forth in the Contract Agreement by more than fifteen percent (15%), the Contractor may give a written notice of objection thereto prior to furnishing the Change Proposal as aforesaid. If the Employer accepts the Contractor's objection, the Employer shall withdraw the proposed Change and shall notify the Contractor in writing thereof.

The Contractor's failure to so object shall neither affect its right to object to any subsequent requested Changes or Change Orders herein, nor affect its right to take into account, when making such subsequent objection, the percentage increase or decrease in the Contract Price that any Change not objected to by the Contractor represents.

34.1.2.6 Upon receipt of the Change Proposal, the Employer and the Contractor shall mutually agree upon all matters therein contained. Within fourteen (14) days after such agreement, the Employer shall, if it intends to proceed with the Change, issue the Contractor with a Change Order. If the Employer is unable to reach a decision within fourteen (14) days, it shall notify the Contractor with details of when the Contractor can expect a decision. If the Employer decides not to proceed with the Change for whatever reason, it shall, within the said period of fourteen (14) days, notify the Contractor accordingly. Under such circumstances, the Contractor shall be entitled to reimbursement of all costs reasonably incurred by it in the preparation of the Change Proposal, provided that these do not exceed the amount given by the Contractor in its Estimate for Change Proposal submitted in accordance with SCC Sub-Clause 34.1.2.2.

34.1.2.7 If the Employer and the Contractor cannot reach agreement on the price for the Change, an equitable adjustment to the Time for Completion, or any other matters identified in the Change Proposal, the Employer may nevertheless instruct the Contractor to proceed with the Change by issue of a —Pending Agreement Change Order.

Upon receipt of a Pending Agreement Change Order, the Contractor shall immediately proceed with effecting the Changes covered by such Order. The parties shall thereafter attempt to reach agreement on the outstanding issues under the Change Proposal.

If the parties cannot reach agreement within sixty (60) days from the date of issue of the Pending Agreement Change Order, then the matter may be referred to the Dispute Board in accordance with the provisions of CC 24.

34.1.3 Changes Originating from Contractor

34.1.3.1 If the Contractor proposes a Change pursuant to SCC Sub-Clause 34.1.1.2 the Contractor shall submit to the Engineer a written Application for Change Proposal, giving reasons for the proposed Change and including the information specified in SCC Sub-Clause 34.1.2.1.

Upon receipt of the Application for Change Proposal, the parties shall follow the procedures outlined in SCC Sub-Clauses 34.1.2.6 and 34.1.2.7. However, should the Employer choose not to proceed, the Contractor shall not be entitled to recover the costs of preparing the Application for Change Proposal.

34.2 Any quantities which may be set out in the Price Schedule are only indicative quantities and are not to be taken as the actual and correct quantities of the Works to be executed by the Contractor in fulfillment of his obligations under the Contract. The Contractor is responsible to assess the exact requirements and quantities for all items for the purpose of quoting his rates, and no variation in rates will be allowed on account of any variation in the indicative quantities.

*Sub-Clause 35.1 stands deleted*
*Sub-Clause 35.2 stands deleted*
*Sub-Clause 35.3 stands deleted*
*Sub-Clause 35.4 stands deleted*

*Replace of the existing Sub-Clause 36.2 with the following text*

36.2: The Employer shall check the Contractor's bill and determine the value of the work executed which shall comprise of (i) value of work completed and (ii) valuation of Variations and Compensation Events

*Add the following Sub-Clause after Sub-Clause 37.2*

37.3 (a) Payment for the Works shall be made on a lump sum under major work categories as follow:

(i) Design, Civil works, installation, testing, commissioning of mechanical, electrical and instrumentation & control equipment and other works required for the different components in accordance with the payment units as set out in the Price Schedule and/or as proposed by the Contractor and approved by the Employer's Representative;
(ii) Plant and equipment supplied including supply of all Electro-Mechancial, electrical and instrumentation equipment & other works, mandatory spare parts, etc., for the different components according to the payment units as set out in the Price Schedule and/or as proposed by the Contractor and approved by the Employer's Representative; and
(iii) Operation and maintenance of the constructed facilities after completion and acceptance of the Works.

Selection of any of the recommended spare parts will be solely at the Employer's option, and payment for such spare parts, if any, will be made at the quoted unit rates.

(b) The Contractor shall pay all the duties and taxes in consequence of his obligations under the Contract and the quoted price should be inclusive of all applicable taxes and duties.

## 37.4 Interim Payment Certificate for Works

37.4 The Contractor shall submit a statement in three copies to the Employer's Representative after the end of each month in a form approved by the Employer's Representative, showing the amounts to which, the Contractor considers himself to be entitled together with supporting documents which shall include the detailed report of progress during the month by submitting progress report. *In case of supplied plant and equipment, inspection and testing clearance certificates shall also be enclosed as support documents*.
The statement shall include the following item,
(a) the estimated contract value, at base rates and prices, of the Construction Documents produced and the Works (including variations) executed up to the end of the month.

## 37.5 Interim Evaluation

37.6 Prior to commencing construction of the Permanent Works, the Contractor shall submit a "Bill of Principal Quantities of the Permanent Works" including provision for construction, installation, testing, trial run and commissioning (referred to in this Sub-Clause as "the BPQPW") together with such supporting information and calculations as the Employer's Representative may reasonably require. The BPQPW shall include the anticipated final quantities of the principal items of Permanent Works, which shall have been priced using all-in rates such that the total amount equals the Works Contract Price. The BPQPW shall not contain priced items for design (other than as may be specified in the Schedule of Prices) or for

Temporary Works; the value of each element of such work, and of any other work elements not described in the BPQPW, shall each be included in the rates for Permanent Works to be constructed after such element is carried out. The BPQPW shall be subject to the approval of the Employer's Representative, which may at any time be withdrawn, and shall be without prejudice to the final amount due under the Contract. The BPQPW shall be revised and reissued if it appears at any time before Taking-Over that it will not fully represent the Permanent Works when complete.

During the Time for Completion, the contract value shall not exceed the amount calculated from the current BPQPW, based on the quantities of Permanent Works which have been constructed in accordance with the Contract. The Contractor's interim statement shall be in the same form as that of the current BPQPW and shall be accompanied by the Contractor's signed statement that the current BPQPW attached thereto (including anticipated final quantities) and the as-constructed quantities are all correct; each such statement shall also be accompanied by a Construction Certificate, signed by the Contractor's Representative, certifying that the part of the Works constructed to date complies with the Contract. However, the Contractor may propose such lesser amount as seems reasonable, supported with appropriate calculations on a similar basis to the procedure described in this Clause.

The above procedures notwithstanding, interim valuations for the purposes of determining payments to be made to the Contractor by the Employer will be made on a progressive basis, subject to approval by the Employer's Representative.

*Replace of the existing Sub-Clause 39.1, Tax with the following text*

39.1. The rates quoted by the Contractor shall be deemed to be inclusive of all the applicable taxes and duties that the Contractor will have to pay for the performance of the contractor. The Contractor should be familiar with the tax laws of the country prevailing at the time of tendering and no claim in this regard will be entertained unless it is due to change in legislation of the country. The Employer will perform such duties in regard to the deduction of such taxes at source as per applicable law.

*Add the following Sub-Clause after Sub-Clause 43.1*

43.2 Prior to making a claim under the Security Deposit, the Employer shall, in every case, notify the Contractor stating the nature of the default for which the claim is to be made.

43.3 Upon receiving the Taking over Certificate, the Contractor shall remove any remaining Contractor's Equipment, surplus material, wreckage, rubbish and Temporary Works from the site.

**43.4 Functional Guarantees**

43.4.1 The Contractor guarantees that during the Guarantee Test, the Facilities and all parts thereof shall attain the Functional Guarantees specified Section 7, Specifications (Functional Guarantees) to the Contract Agreement, subject to and upon the conditions therein specified.

43.4.2 If, for reasons attributable to the Contractor, the minimum level of the Functional Guarantees specified in the Section 7, Specifications (Functional Guarantees) to the Contract Agreement are not met either in whole or in part, the Contractor shall at its cost and expense make such changes, modifications and/or additions to the Plant or any part thereof as may be necessary to meet at least the minimum level of such Guarantees. The Contractor shall notify the Employer upon completion of the necessary changes, modifications and/or additions, and shall request the Employer to repeat the Guarantee Test until the minimum level of the Guarantees has been met. If the Contractor eventually fails to meet the minimum level of Functional Guarantees, the Employer may consider termination of the Contract.

43.4.3 If, for reasons attributable to the Contractor, the Functional Guarantees specified in the Section 7, Specifications (Functional Guarantees) to the Contract Agreement are not attained either in whole or in part, but the minimum level of the Functional Guarantees specified in the Section 7, Specifications to the Contract Agreement is met, the Contractor shall, at the Contractor's option, either
(a) make such changes, modifications and/or additions to the Facilities or any part thereof that are necessary to attain the Functional Guarantees at its cost and expense, and shall request the Employer to repeat the Guarantee Test or
(b) pay liquidated damages to the Employer in respect of the failure to meet the Functional Guarantees in accordance with the provisions in the Contract Data, Appendix 6 (Functional Guarantees) to the Contract Agreement.

43.4.4 The payment of liquidated damages under SCC Sub-Clause 43.4.3, up to the limitation of liability specified in the Contract Data, Appendix 6 (Functional Guarantees) to the Contract Agreement, shall completely satisfy the Contractor's guarantees under SCC Sub-Clause 43.4.3, and the Contractor shall have no further liability whatsoever to the Employer in respect thereof.

**43.5 Patent Indemnity**

43.5.1 The Contractor shall, subject to the Employer's compliance with SCC Sub-Clause

43.5.2, indemnify and hold harmless the Employer and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, which the Employer may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright or other intellectual property

right registered or otherwise existing at the date of the Contract by reason of: (a) the installation of the Facilities by the Contractor or the use of the Facilities in the country where the Site is located; and (b) the sale of the products produced by the Facilities in any country.

Such indemnity shall not cover any use of the Facilities or any part thereof other than for the purpose indicated by or to be reasonably inferred from the Contract, any infringement resulting from the use of the Facilities or any part thereof, or any products produced thereby in association or combination with any other equipment, plant or materials not supplied by the Contractor, pursuant to the Contract Agreement.

43.5.2 If any proceedings are brought or any claim is made against the Employer arising out of the matters referred to in SCC Sub-Clause 43.5.1, the Employer shall promptly give the Contractor a notice thereof, and the Contractor may at its own expense and in the Employer's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

If the Contractor fails to notify the Employer within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Employer shall be free to conduct the same on its own behalf. Unless the Contractor has so failed to notify the Employer within the twenty-eight (28) day period, the Employer shall make no admission that may be prejudicial to the defence of any such proceedings or claim.

The Employer shall, at the Contractor's request, afford all available assistance to the Contractor in conducting such proceedings or claim, and shall be reimbursed by the Contractor for all reasonable expenses incurred in so doing.

43.5.3 The Employer shall indemnify and hold harmless the Contractor and its employees, officers and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, which the Contractor may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of the Employer.

**43.6 Limitation of Liability**

43.6.1 Except in cases of criminal negligence or willful misconduct,

(a) the Contractor shall not be liable to the Employer, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Contractor to pay liquidated damages to the Employer and

(b) the aggregate liability of the Contractor to the Employer, whether under the Contract, in tort or otherwise, shall not exceed a multiple of the Contract Price specified in the SCC or, if a multiple is not so specified, the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the Contractor to indemnify the Employer with respect to patent infringement.

*Add the following Sub-Clause after Sub-Clause 44.1*

**44.2 Defects Liability**

44.2.1 The Contractor warrants that the Facilities or any part thereof shall be free from defects in the design, engineering, materials and workmanship of the Plant supplied and of the work executed

44.2.2 The Defect Liability Period shall be one year from the date of Operational Acceptance of the Facilities for each of the individual Modules.

If during the Defect Liability Period any defect should be found in the design, engineering, materials and workmanship of the Plant supplied or of the work executed by the Contractor, the Contractor shall promptly, in consultation and agreement with the Employer regarding appropriate remedying of the defects, and at its cost, repair, replace or otherwise make good as the Contractor shall determine at its discretion, such defect as well as any damage to the Facilities caused by such defect. The Contractor shall not be responsible for the repair, replacement or making good of any defector of any damage to the Facilities arising out of or resulting from any of the following causes:

(a) improper operation or maintenance of the Facilities by the Employer;
(b) operation of the Facilities outside specifications provided in the Contract; or
(c) normal wear and tear

44.2.3 The Employer shall give the Contractor a notice stating the nature of any such defect together with all available evidence thereof, promptly following the discovery thereof. The Employer shall afford all reasonable opportunity for the Contractor to inspect any such defect.

44.2.4 The Employer shall afford the Contractor all necessary access to the Facilities and the Site to enable the Contractor to perform its obligations under this SCC Clause 44.2.
The Contractor may, with the consent of the Employer, remove from the Site any Plant or any part of the Facilities that are defective if the nature of the defect, and/or any damage to the Facilities caused by the defect, is such that repairs cannot be expeditiously carried out at the Site.

44.2.5 If the repair, replacement or making good is of such a character that it may affect the efficiency of the Facilities or any part

thereof, the Employer may give to the Contractor a notice requiring that tests of the defective part of the Facilities shall be made by the Contractor immediately upon completion of such remedial work, whereupon the Contractor shall carry out such tests.

If such part fails the tests, the Contractor shall carry out further repair, replacement or making good, as the case may be, until that part of the Facilities passes such tests. The tests shall be agreed upon by the Employer and the Contractor.

44.2.6 If the Contractor fails to commence the work necessary to remedy such defect or any damage to the Facilities caused by such defect within a reasonable time (which shall in no event be considered to be less than fifteen (15) days), the Employer may, following notice to the Contractor, proceed to do such work, and the reasonable costs incurred by the Employer in connection therewith shall be paid to the Employer by the Contractor or may be deducted by the Employer from any monies due the Contractor or claimed under the Security Deposit.

44.2.7 If the Facilities or any part thereof cannot be used by reason of such defect and/or making good of such defect, the Defect Liability Period of the Facilities or such part, as the case may be, shall be extended by a period equal to the period during which the Facilities or such part cannot be used by the Employer because of any of the aforesaid reasons.

44.2.8 Except as provided in SCC Clauses 44.2, the Contractor shall be under no liability whatsoever and howsoever arising, and whether under the Contract or at law, in respect of defects in the Facilities or any part thereof, the Plant, design or engineering or work executed that appear after Completion of the Facilities or any part thereof, except where such defects are the result of the gross negligence, fraud, criminal or willful action of the Contractor.

*Add the following Sub-Clause after Sub-Clause 45.1*

**45.2 Performance Certificate**

45.2 Performance of the Contractor’s obligations shall not be considered to have been completed. Until the Employer has issued the performance Certificate to the Contractor, starting the date on which, the contractor completed his obligations under the contract.

The Employer shall issue the Performance Certificate within 28 days after the latest of the expiry dates of the Defects Liability Period, or as soon thereafter as the contractor has supplied all the contractor’s documents and completed and tested all the works, including remedying any defects.

Only the performance certificate shall be deemed to constitute acceptance of the works.

*Add the following Sub-Clause after Sub-Clause 46.1*

## 46.2 Taking Over of Works and Sections

46.2 The Works shall be taken over by the Employer when:
(i) the works have been completed in accordance with the Contract, and
(ii) a Taking-Over Certificate for the Works has been issued, or is deemed to have been issued in accordance with this sub-Clause.
The Contractor may apply by notice to the Employer for a Taking-Over Certificate not earlier than 14 days before the works will, in the Contractors opinion, be complete and ready for taking over.

The Employer shall, within 28 days after receiving the Contractor's application:

(a) issue the Taking-Over Certificate to the Contractor, starting the date on which the Works or Sections were completed in accordance with the Contract, except for any minor outstanding work and defects which will not substantially affect the use of the Works or Section for their intended purpose (either until or whilst this work is completed and these defects are remedied); or;

(b) reject the application, giving reasons and specifying the work required to be done by the Contractor to enable the Taking-Over Certificate to be issued. The Contractor shall then complete this work before issuing a further notice under this sub-clause.

## 53. Labour

The Contractor shall, unless otherwise provided in the Contract, make his own arrangements for the engagement of all staff and labour, local or other, and for their payment, housing, feeding and transport.

The Contractor shall, if required by the Employer, deliver to the Employer a return in detail, in such form and at such intervals as the Employer may prescribe, showing the staff and the numbers of the several classes of labour from time to time employed by the Contractor on the Site and such other information as the Employer may require.

The Contractor shall not recruit, or attempt to recruit, staff and labour from amongst the Employer's Personnel.

## 54. Compliance with Labour Regulations

During continuance of the contract, the Contractor and his sub contractors shall abide at all times by all existing labour enactments and rules made there under, regulations, notifications and bye laws of the State or Central Government or local authority and any other labour law (including rules), regulations, bye laws that may be passed or notification that may be issued under any labour law in future either by the State or the Central Government or the local authority. The Contractor shall keep the Employer indemnified in case any action is taken against the Employer by the competent authority on account

of contravention of any of the provisions of any Act or rules made there under, regulations or notifications including amendments. If the Employer is caused to pay or reimburse, such amounts as may be necessary to cause or observe, or for non-observance of the provisions stipulated in the notifications/bye laws/Acts/Rules/regulations including amendments, if any, on the part of the Contractor, Employer shall have the right to deduct any money due to the Contractor including his amount of security deposit. The Employer shall also have right to recover from the Contractor any sum required or estimated to be required for making good the loss or damage suffered by the Employer.

The employees of the Contractor and the Sub-Contractor in no case shall be treated as the employees of the Employer at any point of time.

54.1 Labour Laws

(a) The Contractor shall comply with all the relevant labour Laws applicable to the Contractor's Personnel, including Laws relating to their employment, health, safety, welfare, immigration and emigration, and shall allow them all their legal rights.
(b) The Contractor shall at all times during the progress of the Contract use its best endeavors to prevent any unlawful, riotous or disorderly conduct or behavior by or amongst its employees and the labour of its Subcontractors.
(a) The Contractor shall, in all dealings with its labour and the labour of its Subcontractors currently employed on or connected with the Contract, pay due regard to all recognized festivals, official holidays, religious or other customs and all local laws and regulations pertaining to the employment of labour.

54.2 Rates of Wages and Conditions of labour

a) The Contractor shall pay rates of wages, and observe conditions of labour, which are not lower than those established for the trade or industry where the work is carried out. If no established rates or conditions are applicable, the Contractor shall pay rates of wages and observe conditions which are not lower than the general level of wages and conditions observed locally by employers whose trade or industry is similar to that of the Contractor.
b) The Contractor shall inform the Contractor's Personnel about their liability to pay personal income taxes in the Country in respect of such of their salaries, wages and allowances as are chargeable under the Laws for the time being in force, and the Contractor shall perform such duties in regard to such deductions thereof as may be imposed on him by such Laws.

54.3 Working Hours

(a) No work shall be carried out on the Site on locally recognized days of rest, or outside the normal working hours stated in the SCC, unless:

(i) otherwise stated in the Contract,
(ii) the Engineer gives consent, or

(iii) the work is unavoidable, or necessary for the protection of life or property or for the safety of the Works, in which case the Contractor shall immediately advise the Engineer.

(a) If and when the Contractor considers it necessary to carry out work at night or on public holidays so as to meet the Time for Completion and requests the Engineer's consent thereto, the Engineer shall not unreasonably withhold such consent.

(b) This Sub-Clause shall not apply to any work which is customarily carried out by rotary or double-shifts.

54.4 Facilities for Staff and labour

(a) Except as otherwise stated in the Specification, the Contractor shall provide and maintain all necessary accommodation and welfare facilities for the Contractor's Personnel. The Contractor shall also provide facilities for the Employer's Personnel as stated in the Specification.

The Contractor shall not permit any of the Contractor's Personnel to maintain any temporary or permanent living quarters within the structures forming part of the Permanent Works.

54.5 Health and Safety

(a) The Contractor shall at all times take all reasonable precautions to maintain the health and safety of the Contractor's Personnel. In collaboration with local health authorities, the Contractor shall ensure that medical staff, first aid facilities, sick bay and ambulance service are available at all times at the Site and at any accommodation for Contractor's and Employer's Personnel, and that suitable arrangements are made for all necessary welfare and hygiene requirements and for the prevention of epidemics.

(b) The Contractor shall appoint an accident prevention officer at the Site, responsible for maintaining safety and protection against accidents. This person shall be qualified for this responsibility, and shall have the authority to issue instructions and take protective measures to prevent accidents. Throughout the performance of the Contract, the Contractor shall provide whatever is required by this person to exercise this responsibility and authority.

(a) The Contractor shall send, to the Engineer, details of any accident as soon as practicable after its occurrence. The Contractor shall maintain records and make reports concerning health, safety and welfare of persons, and damage to property, as the Engineer may reasonably require.

54.6 Funeral Arrangements

In the event of the death of any of the Contractor's personnel or accompanying members of their families, the Contractor shall be responsible for making the appropriate arrangements for their return or burial, unless otherwise specified in the SCC.

54.7 Records of Contractor’s Personnel

The Contractor shall keep accurate records of the Contractor’s personnel, including the number of each class of Contractor’s Personnel on the Site and the names, ages, genders, hours worked and wages paid to all workers. These records shall be summarised on a monthly basis in a form approved by the Engineer and shall be available for inspection by the Engineer until the Contractor has completed all work.

54.8 Supply of Foodstuffs

The Contractor shall arrange for the provision of a sufficient supply of suitable food as may be stated in the Specification at reasonable prices for the Contractor’s Personnel for the purposes of or in connection with the Contract.

54.9 Supply of Water

The Contractor shall, having regard to local conditions, provide on the Site an adequate supply of drinking and other water for the use of the Contractor’s Personnel.

54.10 Measures against Insect and Pest Nuisance

The Contractor shall at all times take the necessary precautions to protect the Contractor’s Personnel employed on the Site from insect and pest nuisance, and to reduce their danger to health. The Contractor shall comply with all the regulations of the local health authorities, including use of appropriate insecticide.

54.11 Alcoholic Liquor or Drugs

The Contractor shall not, otherwise than in accordance with the Laws of the Country, import, sell, give barter or otherwise dispose of any alcoholic liquor or drugs, or permit or allow importation, sale, gift barter or disposal by Contractor's Personnel.

54.12 Arms and Ammunition

The Contractor shall not give, barter, or otherwise dispose of, to any person, any arms or ammunition of any kind, or allow Contractor's Personnel to do so.

54.13 Prohibition of All Forms of Forced or Compulsory labour

The contractor shall not employ "forced or compulsory labour in any form. "Forced or compulsory labour" consists of all work or service, not voluntarily performed, that is extracted from an individual under threat of force or penalty.

54.14 Prohibition of Harmful Child labour

The Contractor shall not employ any child to perform any work that is economically exploitative, or is likely to be hazardous to, or to interfere with, the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development.

54.15 Site Regulations and Safety

The Employer and the Contractor shall establish Site regulations setting out the rules to be observed in the execution of the Contract at the Site and shall comply therewith. The Contractor shall prepare and submit to the Employer, with a copy to the Engineer, proposed Site regulations for the Employer’s approval, which approval shall not be unreasonably withheld.

Such Site regulations shall include, but shall not be limited to, rules in respect of security, safety of the Facilities, gate control, sanitation, medical care, and fire prevention.

54.16 Emergency Work

If, by reason of an emergency arising in connection with and during the execution of the Contract, any protective or remedial work is necessary as a matter of urgency to prevent damage to the Facilities, the Contractor shall immediately carry out such work.

If the Contractor is unable or unwilling to do such work immediately, the Employer may do or cause such work to be done as the Employer may determine necessary in order to prevent damage to the Facilities. In such event the Employer shall, as soon as practicable after the occurrence of any such emergency, notify the Contractor in writing of such emergency, the work done and the reasons therefore. If the work done or caused to be done by the Employer is work that the Contractor was liable to do at its own expense under the Contract, the reasonable costs incurred by the Employer in connection therewith shall be paid by the Contractor to the Employer. Otherwise, the cost of such remedial work shall be borne by the Employer.

## 55. Protection of Environment

The contractor shall take all reasonable steps to protect the environment on and off the Site and to avoid damage or nuisance to persons or to property of the public or others resulting from pollution, noise or other causes arising as a consequence of his methods of operation. During continuance of the contract, the contractor and his sub-contractors shall abide at all times by all existing enactments on environmental protection and rules made there under, regulations, notifications and bye-laws of the State or Central Government, or local authorities and any other law, bye-law, regulations that may be passed or notification that may be issued in this respect in future by the State or Central Government or the local authority.

## 56. Arbitration (Clause 24)

56.1 The procedure for arbitration shall be as follows:

a) In case of dispute or difference arising between the Employer and the Contractor relating to any matter arising out of or connected with this agreement it shall be settled in accordance with the Arbitration and Conciliation Act 1996. The disputes or differences shall be referred to the Arbitrators. The Arbitrators shall be appointed by agreement between the parties; failing such agreement, by the Appointing Authority as in Contract Data

(b) Arbitration proceedings shall be held at Bangalore, Karnataka, India

(c) The cost and expenses of arbitration proceedings will be paid as determined by the Arbitrator. However, the expenses incurred by each party in connection with the preparation, presentation, etc., shall be borne by each party itself.

(d) Performance under the contract shall continue during the arbitration proceedings and payments due the Contractor by the Employer shall not be withheld, unless they are the subject matter of the arbitration proceedings.

## 57. Contract Agreement

The costs of stamp duties and similar charges imposed by the law shall be borne by the Contractor.
Not signing the Contract Agreement for any reason whatsoever shall not affect the contract entered into between the Contractor and the Employer by the Letter of Tender and the Letter of Acceptance issued by them respectively.

## 58. Electricity and Water

The Contractor shall be responsible for provision of all power, water, and other services he may require for performance of the Works Contract.
For performance of Tests on Completion: Provision of electricity during Tests on Completion and during the Operation and Maintenance Period shall be the responsibility of the Employer.

## 59.0 Plant Materials and Workmanship

59.1 Manner of Execution
The contractor shall carry out the manufacture of plant, the production and manufacture of Materials, and all other execution of the Works:
(a) In the manner (if any) specified in the Contract,
(b) In a proper workmanlike and careful manner, in accordance with recognized good practices, and
(c) With properly equipment facilities

## 59.2 Samples

The Contractor shall submit sample to the Employer, for review in accordance with the procedures specified in the Contract and at the Contractor's cost. Each sample shall be labeled as origin and intended use in the works.

### 59.3 Remedial Work

Notwithstanding any previous test or certification, the Employer may instruct the Contractor to:

(a) remove from the site and replace any plant or Material which is not in accordance with the Contract.
(b) remove and re-execute any other work which is not in accordance with the Contract, and
(c) execute any work, which is urgently required for the safety of the Works. Whether because of an accident unforeseeable event or other.
If the Contractor fail to comply with any such instruction, the Employer shall be entitled to employee and pay other person to carry out the work. Except to the extent the Contractor would have been entitled to payment for the work, the Contractor shall subject to pay to the Employer all costs arising from this failure.

### 59.4 Ownership of Plant & Materials

Each item of plant and material shall, to the extent consistent with the Laws of the Country become the property of the Employer, at whichever is earlier of the following items, free from liens and other encumbrances:

(a) When it is delivered to the Site;
(b) When the Contractor is entitled to payment of value of the Plant and Material.

The Contractor shall not be entitled to payment for Plant and Materials which are not in compliance with the Specifications or any other terms or requirements of this Contract.

### 59.5 Royalties

Unless otherwise stated in the Specifications, and in accordance with the prevailing rules and rates specified by the Government of Karnataka the Contractor shall pay all applicable royalties, rents, and other payments to the relevant parties for:

(a) all Equipment, Plant, and Materials used in the Works, and
(b) the disposal of material from demolitions and excavations and of other surplus materials (whether natural or man made), except to the extent that disposal areas within the site are specified in the Contract

and as per the prevailing rules and rates specified by the Government of Karnataka.

## 60. Test on Completion

**60.1, Test on Completion,** The contractor shall carry out the Tests on Completion in accordance with clause and Sub-clause 60.4 (Testing) of this section after providing the required documents.
The contractor shall give to the Employer not less than 21 days' notice of the date after which the Contractor will be ready to carry out each of the Tests on Completion. Unless otherwise agreed, Tests on Completion shall be carried out within 14 days after this date, on such days as the Employer shall instruct.

Unless otherwise stated in the contract, the tests on Completion shall be carried out in the following sequences.

(a) Pre-commissioning tests, which shall include the appropriate inspections and (_Dry —or —Wet) functional tests to demonstrate that each item of plant can safely under- take the next stage,
(b) Commissioning tests, which shall include the specified operational tests demonstrate that the works or section can be operated safety and as specified, under all available operating conditions and
(c) Trial operation, which shall demonstrate that the woks or section perform reliably and in accordance with the Contract.

During trial operation, when the works are operating under stable conditions, the contractor shall give notice to the Employer that the Works are ready for any other Tests on Completion, including performance tests to demonstrate whether the Woks conform with the criteria specified in the Specifications and with the Performance Guarantees.
Trial operation shall not constitute a taking-over unless otherwise stated the Particular- conditions, any product produced by the Works during trial operation shall be the property of the Employer.

In considering the results appropriate allowance shall be the Works by the Employer characteristics of the Works. Section, have passed each of the Tests on Completion, made for the Effect of any use of on the performance or other as soon as the Works, or a of the Tests on completion described in Sub-paragraph (a)**,** (b) or (c) the contractor shall submit a certified report of the Results of these tests to the Employer.

**60.2. Delayed Tests** If the tests on Completion are being unduly delayed by the Contractor, the Employer may by notice require the Contractor to carry out the Tests within 21 days after receiving the notice. The contractor shall carry out the tests on such day or days within that period as the Contractor may fix and of which he shall give notice to the Employer.

If the Contractor fails to carry out the Tests on Completion within the period of 21 days, the Employer's personnel may proceed with the

Tests at the risk and cost of the Contractor. If the following conditions apply:

(a) the Works, or a Section, fail to pass any or all of the Tests on Completion;
(b) the relevant sum payable as damages for such failure is stated (or its method of calculation is defined) in the Appendix to Special Conditions of Contract, and;
(c) the Contractor pays such relevant damages to the Employer;

These tests on completion shall then be deemed to have been carried out in the presence of the Contractor and the results of the tests shall be accepted as accurate.

**60.3. Retesting** If the works, or a section, fail to pass the tests on completion and the Employer or the Contractor may require the failed tests, and tests on completion on any related work, to be repeated under the same terms and conditions

**60.4. Failure to Pass Tests on Completion:** In the event that the Works fail to pass any or all of the Tests on Completion as defined in Specifications, the Employer will levy Damages, based on the extent or magnitude of such failure, in accordance with the formulation provided in the Appendix to Special Conditions of Contract then the Works or such Section shall be deemed to have passed such Tests on Completion.
However, the total amount of Delay Damages for Works and Damages for failure to pass the Tests on Completion as defined in this Sub-Clause shall not exceed the maximum amount of ‗Delay Damages for Works' stated in the **Contract Data**

**60.5. Joint Inspection Prior to Contract Completion:** Not less than one year prior to the end of Defect Liability Period, the Engineer and the Contractor shall carry out a joint inspection of the Works and within 30 days of the completion of the joint inspection, the Contractor shall submit a report on the condition of the Works identifying maintenance works (excluding routine maintenance), correction of defects, replacements, and other works required to be carried out to satisfy the requirements of the Operation and Maintenance Plan.

The Contractor shall submit a programme for carrying out such works for approval/modification by the Engineer and shall execute the approved/modified works.

Upon satisfactory execution of the programme, the Contractor shall commence the Tests Prior to Contract Completion in accordance with Sub-Clause 62.7 [*Procedure for Tests Prior to Contract Completion*].

**60.6 Procedure for Tests Prior to Contract Completion:** The Tests Prior to Contract Completion shall be carried out by the Contractor. The Contractor shall provide all necessary labour, materials, electricity, fuel, and water. The Contractor shall undertake and complete any required remedial works that may be required to

pass all the Tests. The Tests Prior to Contract Completion shall be carried out in accordance with the Specifications.

(a) Inspection in accordance with Sub-Clause 62.6 [*Joint Inspection Prior to Contract Completion*],
(b) Testing in accordance with Sub-Clause 62.7 [*Procedure for Tests Prior to Completion*],
(c) Remedying defects found during inspection in accordance with Sub-Clause 62.6 [*Joint Inspection Prior to Contract Completion*].

## SECTION 6: CONTRACT DATA

| **The following documents are also part of the Contract** | **Clause Reference of CC & SCC** |
|---|---|
| The schedule of Operating & Maintenance Manuals | [48&62] |
| The Methodology and Program of Construction | [25] |
| Site Investigation Reports | [14] |
| The schedule of key and critical equipment to be deployed on the work as per agreed program of construction | [5.3.14/15/16/17] [59] |
| The Employer is : | [1.1] |
| Name: **Bangalore Water Supply and Sewerage Board**<br>Represented by Chief Engineer (WWM-West)<br>Address: Bangalore Water Supply and Sewerage Board<br>6th Floor, Cauvery Bhavan, BWSSB,<br>K G Road, Bangalore 560 009 | |
| The Engineer/Authorized Representative is :<br>*Executive Engineer, BWSSB,*<br>*Waste Water Management,*<br>*V.Valley Project Division,*<br>*Mysore Road, Nayanadahalli,*<br>*Bengaluru - 560 039.* | [1.1] & [5.2] |
| The name of the Contract is: Upgradation of existing 60 MLD Sewage Treatment Plant to ultimate build capacity 80 MLD at Kengeri by Providing Electro-Mechancial and Instrumentation equipments | [1.1] |
| Scope of Work in Brief: **Upgradation of existing 60 MLD Sewage Treatment Plant to ultimate build capacity 80 MLD at Kengeri by Providing Electro-Mechancial and Instrumentation equipments (2nd Call)** | |
| The start date shall be the date of issue of notice to proceed with the work | [1.1] |
| The Intended Completion Date for the whole of the Works Contract is **12 Months** including commissioning from the date of commencement | [17,26] |
| Communication | English |
| Working Hours: 0800 hrs to 1800 hrs. [1.1]<br>The Contractor shall be responsible to obtain in written consent of the Employer if he desires to work outside these times. | |
| Defect Liability Period is **1 year from the date of Operational Acceptance of the Facility of each Module** | [44.2.2] |

| | |
|---|---|
| The site possession date is 15 days | [21] |
| Location of the Site: Kengeri STP, Mysore Road, Bengaluru | [1.1] |
| Amount of security Deposit: **Five Percent (5%)** of the Works Contract Price | [43.1] |
| Liquidated Damages for Works: 0.1% of the **Works Contract Price** per day, in the same currency / currencies the Contract Price is payable in.<br>The Damages will also apply on the non-achievement of intermediate milestones as set in Schedule 4 (Time period). The same will be calculated at the end of the intermediate milestone periods and will be based on balance works at the end of each milestone. However the delay damages of intermediate milestone will be waived off if the Contractor catches up the progress going ahead during the duration of the Contract. | [41] |
| Maximum amount of Delay Damages for Works: **10% of the Works Contract Price.** | [41] |
| Currencies and proportion: Local Currency: | Indian Rupee (Rs) |
| (a) Mobilized the Project Manager for the Contract.<br>(b) Established and staffed a functional design office at Bangalore<br>(c)<br>(a)<br>(b)<br>(d) Mobilized the Site staff.<br>(e) Submitted a list of proposed subcontractors and their respective agreements for approval by the Engineer.<br>(f) Submitted the proposed construction programme for approval by the Engineer.<br>(g) Submitted, for approval by the Engineer, mobilization/ | [42] |

| | |
|---|---|
| deployment schedules for:<br>• Contractor's key personnel required for managing, executing and supervising the Works,<br>• Contractor's Plant, Machinery and Equipment required for executing the Works; and<br>• Procurement Schedule for major materials and equipment to be incorporated into the Permanent Works.<br>(h) Submitted a Cash Flow Forecast for approval by the Engineer.<br>(i) Submitted a list of proposed suppliers and manufacturers, along with their credentials, for approval by the Engineer.<br>(j) Actual deployment of: (i) such Personnel, (ii) Machinery and Equipment, and (iii) placing of orders for major materials and equipment to be incorporated into the Permanent Works, as per the approved deployment schedules.<br>(k) Established the fully furnished Site office(s).<br>(l) Placed confirmed orders for supply of major items of material and equipment which is to be incorporated into the Permanent Works as per the approved procurement schedule.<br>(m) Procured initial quantities of structural steel, pipes/plates, etc., required for executing the works in accordance with the approved schedule.<br>(n) Established and staffed, | |

| | |
|---|---|
| with qualified personnel a completely equipped testing laboratory at site for quality control purpose.<br>(o) Utilization details of first mobilization advance | |
| Start repayment of advance payment: The advance payment shall be repaid in **5 (Five equal monthly installments starting from first RA Bill, each in the amount of 20% of the amount of the mobilization advance.** | [42] |
| The DAB shall be Three (3) members | [56] |
| Appointment (if not agreed) to be made by Institute of Engineers (India) | [56] |
| The date by which As-built drawings in 4 sets are required within 30 days of issue of certificate of completion of whole or section of the works as the case may be | [48] |
| The amount to be withheld for failing to supply As-built drawings by the date required is **INR 2,00,000/-** | [48] |
| The following events shall also be fundamental breach of the contract:<br>The contractor has contravened Sub-clause 7.1 and Clause 9 of CC | [49.2] |
| The Percentage to apply to the value of the work not completed representing the Employer‘s additional cost for completing the Works shall be 30 percent (30%) | [50.1] |
| Contractor to submit the invoice of materials procured in the works contract for payment | 37.4 |

## Appendix 1 - Terms and Procedures of Payment

In accordance with the provisions of CC & SCC Clause 37 (Terms of Payment), the Employer shall pay the Contractor in the following manner and at the following times, on the basis of the Price Breakdown given in the section on Price Schedules. Payments of the contract price shall be made in the currency (Indian Rupees) in which the tender price is expressed in the bid of the successful bidder. Applications for payment in respect of part deliveries may be made by the Contractor as work proceeds.

### A) Terms of Payment

| Major Work Category | Type of Payment | Payment (in % of Total Price) | Description (Stage of Work) |
|---|---|---|---|
| **Supply and Delivery of Plant and Equipment for Incorporation in the Permanent Works:** | | | |
| Supply and delivery to site of mechanical and electrical equipment, instrumentation, including pipes, valves, fittings and accessories. | P | 70% | Progressive payment for supply, delivery to the site, proper storage and acceptance, up to 70% of the contract price for the relevant item. Invoice to be Submitted. |
| | LS | 20% | LS payment on successful completion of installation 20% of the contract price for supply and delivery of the relevant item. |
| | LS | 10% | LS payment on successful completion of the testing & commissioning, including rectifying any defects observed during this period 10% of the contract price for supply and delivery of the relevant item |
| Erection, installation, testing Trial run and commissioning of the equipments / structures etc. | LS | 100% | LS payment on successful completion of the installation, testing Trial run and commissioning, including rectifying any defects observed during this period. |
| Testing, Trial run and commissioning of the entire plant. | LS | 100% | LS payment on successful completion of the commissioning, including rectifying any defects observed during this period. |

## Appendix 2 - Insurance Requirements

| Insurance requirements are as under: [13] **Sl.No.** | **Type of Cover** | **Minimum cover for Insurance** |
|---|---|---|
| (i) | Works and of Plant and materials | **Contract Price plus 20%** |
| (ii) | Loss or damage to equipment | Full replacement cost |
| (iii) | Loss or damage to property of Third Party | Full replacement cost |
| (iv) | Personal injury or death insurance | |
| (a) for Third Party | **Rs 30.00 Lakh per occurrence** with number of occurrences unlimited | |
| (b) for Contractor ‘s employees or labour | In accordance with the statutory requirements applicable to Karnataka | |
| (v) | Other insurances | As per contract requirement |

# SECTION 7, 7A &7B: FORM OF TECHNICAL PROPOSAL, SPECIFICATIONS AND TECHNICAL SCHEDULES

## SECTION 10

## FORMAT OF BANK GUARANTEE FOR SECURITY DEPOSIT

To: [name of Employer]

[Address of Employer]

WHEREAS _____[name and address of Contractor] (hereinafter called "the Contractor")
has undertaken, in pursuance of Contract No._____ _, dated _____to execute [name of Contract and brief description of Works] (hereinafter called "the Contract");
AND WHEREAS it has been stipulated by you in the said Contract that the Contractor shall furnish you with a Bank Guarantee by a recognized bank for the sum specified therein as security for compliance with his obligations in accordance with the Contract;
AND WHEREAS we have agreed to give the Contractor such a Bank Guarantee;
NOW THEREFORE we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Contractor, up to a total of Rs. _____[amount of guarantee] Rupees_____ [in words], and we undertake to pay you, upon your first written demand and without cavil or argument, any sum or sums within the limits of_____ [amount of guarantee] as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.
We hereby waive the necessity of your demanding the said debt from the Contractor before presenting us with the demand.
We further agree that no change or addition to or other modification of the terms of the Contract or of the Works to be performed there under or of any of the Contract documents which may be made between you and the Contractor shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition or modification.

This guarantee shall be valid until 30 days from the date of expiry of the Defects Liability Period.

Signature and seal of the Guarantor _____

Name of Bank_____

Address _____

Date_____